

STATE OF UTAH
LEGAL COMPLIANCE AUDIT GUIDE
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For information about the Legal Compliance Audit Guide click here to read the [Introduction](#).

General Compliance

Department of Agriculture & Food (UDAF)

State Office of Education (SOE)

Department of Community & Culture (DCC)

Department of Environmental Quality (DEQ)

Department of Health (DOH)

Department of Natural Resources (DNR)

Department of Human Services (DHS)

Department of Transportation (DOT)

Appendix A: Illustrative Examples of Independent Auditor's Report on State Legal Compliance

Appendix B: Single Audit Issues

Appendix C: Miscellaneous

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APPLICATION:

This guide does not apply to State departments or agencies. This guidance applies to audits of counties, cities, towns, school districts, and all non-profit corporations that receive at least 50% of their funds from federal, state, or local government entities.

During the 1989 and 2003 Legislative Session the State Legislature amended the audit requirements in Section 51-2a of the *Utah Code*. This amendment added several new requirements to those previously in the laws.

First, the law now requires the filing of financial reports with the State Auditor by all nonprofit corporations that received at least 50% of their funds from federal, state, or local government entities, as a condition for receiving such aid. Nonprofit corporations are not required to report on general state requirements and minor state grants.

Second, the law requires the State Auditor to establish guidelines, qualifications criteria, and audit procurement procedures for all entities that file financial reports.

Finally, the law requires that each audit report include three additional documents: (1) a statement by the auditor expressing positive assurance of compliance with State fiscal laws identified by the State Auditor; (2) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments; and (3) management's response to the specific recommendations.

This compliance manual provides the compliance requirements for most state funds distributed to local governments and non-profit corporations. However, the compliance features of some state programs are contract specific. For those programs, the governmental unit should comply with the requirements specified in the contract. Therefore, the independent auditor should refer to the contract for the compliance requirements to be tested.

In some instances, suggested audit procedures have been provided. Suggested audit procedures are not the only procedures an auditor can use, nor are they mandatory procedures. Auditors should apply professional judgement to test compliance with the requirements.

This introductory section addresses the basic compliance audit requirements for local governments and those nonprofit organizations required to file their financial statements with the State Auditor's Office. It also discusses the study and evaluation of internal controls and reporting on State legal compliance. The first section of the manual provides general compliance requirements with which all governmental entities must comply. Following that section are the specific compliance requirements for State funds received by local governments and certain nonprofit organizations.

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BASIC COMPLIANCE AUDIT REQUIREMENTS:

As stated previously, any nonprofit corporation that receives 50% or more of its funds from federal, state, or local governmental entities must file its audited financial report with the State Auditor's Office. These corporations are subject to all of the requirements included in this *Compliance Audit Guide* unless specifically exempted (as in general compliance requirements.)

However, nonprofit corporations that receive less than 50% of their funds from federal, state, or local governmental entities are not subject to any of the requirements of this *Compliance Audit Guide*. Testwork and reporting are not required even if major grants have been received by these entities. (However, the grant may be subject to audit requirements if agreed to in the contract with the State department awarding the funds.)

Nonprofit corporations which are required to file their financial reports with the State Auditor's Office because they have received federal and/or local funds but have not received any State funds, are not required to include a State compliance report in the audit report.

All audits of local governments and nonprofit corporations required by Section 51-2a-201 of the *Utah Code* to have audits must be conducted in accordance with *Government Auditing Standards* issued by the U.S. General Accounting Office.

All entities with total revenues or expenditures greater than or equal to \$350,000 are required to have their financial statements audited by a certified public accountant licensed to practice in Utah. All entities with total revenues or expenditures greater than or equal to \$200,000 but less than \$350,000 are required to have a review performed by a certified public accountant. All entities with total revenue or expenditures greater than or equal to \$100,000 but less than \$200,000 are required to have a compilation performed by a certified public accountant. Entities with revenues and expenditures less than \$100,000 are required to report financial information on forms provided by the State Auditor's Office.

All audits of governmental entities with revenues or expenditures greater than or equal to \$350,000 are required to include tests of the general compliance requirements identified in this *Compliance Audit Guide* regardless of whether any State funds have been received. General compliance testwork and reporting is not required for any governmental entity where total revenues and expenditures are both less than \$350,000. Nonprofit corporations are not subject to the general compliance requirements and, therefore, no testwork is required.

State grants, contracts, programs, and loans with revenues or expenditures over \$100,000 are considered major programs. For entities with revenues or expenditures greater than or equal to \$350,000, all Liquor Law Enforcement funds and B & C Road funds are treated as major programs. Provider contracts to nonprofit entities with annual contract revenues over \$100,000 should be treated as major programs. Each major program received by an entity must be audited for compliance with the grant specific requirements outlined in this manual, or as determined by the independent auditor based on review of the contract or grant document. However, the requirement to test major programs does not apply to entities that have total revenues and expenditures of less than \$350,000 and are not required to have their financial statements audited.

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Example 1: XYZ City had a total of \$140,000 in revenues and/or expenditures in the fiscal year. Of that total, \$20,000 was from local sources and the remaining \$120,000 was from a water system grant. Since XYZ city fell between the \$100,00 and \$200,000 limit, it is only required to have a compilation. State legal compliance testing of general or specific requirements is not required. Although the water system grant exceeded \$100,000, the water system grant is not required to be tested as a major program since the city fell under the \$350,000 limit.

Example 2: ABC Mosquito District received \$152,000 in a grant from the State Department of Health to fight gypsy moths plus it received \$80,000 in local funds (property taxes) during the fiscal year. All grant and local funds were expended in the same fiscal year. Since the District's total revenues and expenditures are greater than \$200,000 but less than \$350,000, the District must hire a certified public accountant to perform a review of their financial statements. Although the grant from the State Department of Health exceeds \$100,000, the health grant is not required to be tested as a major program since the mosquito district does not require an audit.

Example 3: QXZ nonprofit corporation had revenues totaling \$380,000. Of this amount, \$150,000 was a grant from the State Department of Health. All other revenues are from client billings. Since the corporation did not receive 50% of its funds from federal, state, or local governmental sources, it is not subject to any of the requirements of this *Compliance Audit Guide*. The grant need not be audited for compliance with grant specific requirements even though it meets the definition of a major grant because the entity is not subject to the audit requirements of Section 51-2 of the *Utah Code*. (However, the state grant may be subject to other audit requirements agreed to in the contract with the State department or agency.)

Example 4: ABC Family Services is a nonprofit corporation that receives 100% of its funds from federal, state, and local governmental sources totaling \$550,000. This amount includes grants from the Department of Human Services (\$150,000) and the State Office of Education (\$200,000). These state funded grants are subject to grant specific compliance testwork and reporting in accordance with this *Compliance Audit Guide*. However, general compliance testing is not required.

Example 5: A non-profit organization is required to file an audit report with the State Auditor's Office. The organization received \$350,000 from a provider contract from Human Services. Since the provider contract exceeds \$100,000, a state major program exists and the auditor must follow the compliance testing and reporting requirements of this *Compliance Audit Guide*. No specific compliance requirements relating to the contract can be found in this *Compliance Audit Guide*. Therefore the auditor must review the provider contract and determine if the non-profit entity complied with the provider contract. (The audit should determine if the non-profit entity provided the services they were paid for.) General compliance testing is not required. See appendix App A-7 for a sample report.

Section 51-2a-202 of the *Utah Code* requires that each audit report include "a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditures of funds received from federal, state, or local governments to be considered by management." Therefore, every audit report must include a management letter to the governmental entity or a schedule of findings and recommendations if: 1) there are any compliance findings or internal control weaknesses that are required to be reported in accordance with *Government Auditing Standards* or Single Audit standards as found in OMB Circular A-133; or 2) there are any State compliance issues noted during the audit (regardless of materiality). The

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governmental entity is also required to respond to each of the specific recommendations made by the auditor.

If there are no findings or internal control weaknesses required to be reported in accordance with *Government Auditing Standards* or Single Audit standards as found in OMB Circular A-133, and if the State compliance report indicates that no instances of noncompliance were noted (see Example 2 in Appendix A-2), then a management letter is not required.

The management letter and management's responses to the recommendations need not be bound in the auditor's report on the financial statements, but the report will not be considered complete until all required elements have been received by the State Auditor's Office.

STATE MATCHING FUNDS FOR FEDERAL GRANTS:

In many instances local governments receive State money in the form of matching funds for federal grants. Also, in many cases the State agency providing the funds does not specify a breakdown between the usage of State and federal funds. Auditors are not required to test State matching funds of federal grants for State compliance issues. It is assumed that these funds will be audited for compliance as part of the federal grant when required by the Single Audit Act. In cases where the State agency has added significant additional requirements to the matching funds, these assistance programs have been included in this manual and auditors will be required to perform the extra testwork to ensure compliance with these requirements.

STUDY AND EVALUATION OF INTERNAL CONTROLS:

There should be a study and evaluation of the internal controls used in administering State assistance. This study and evaluation should be performed in accordance with SAS 78, *Consideration of Internal Control in a Financial Statement Audit: An Amendment to SAS 55*. These standards require the auditor to obtain a sufficient understanding of the internal control structure to plan the audit by performing procedures to understand the design of policies and procedures and whether they have been placed in operation.

REPORTING ON STATE LEGAL COMPLIANCE:

Section 51-2a-202 of the *Utah Code* requires a statement expressing positive assurance of compliance with State fiscal laws. Therefore, every audit report must include a compliance opinion. If an entity has not received any State assistance, the compliance opinion would only cover compliance with general compliance requirements.

The compliance report should include—

- a. A title that includes the word *independent*.
- b. A statement that the entity's compliance with the State requirements identified in the report was audited and that the auditor also performed an audit of the entity's financial statements and issued a report thereon.

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- c. A statement identifying all State funds received by the entity categorized by major grants and nonmajor grants.
- d. A statement identifying the general compliance requirements included in audit testwork. (Not applicable to nonprofit corporations.)
- e. A statement that compliance with State requirements is the responsibility of the entity's management and that the auditor's responsibility is to express an opinion on compliance with those requirements based on his or her audit.
- f. A statement that the audit was conducted in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the U.S. General Accounting Office and that these standards require the auditor to plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements occurred.
- g. A statement that an audit includes examining, on a test basis, evidence about the entity's compliance with the requirements.
- h. A statement that the auditor believes that his or her audit provides a reasonable basis for an opinion.
- i. A summary of all instances of noncompliance with State requirements noted and identification of amounts questioned or reference to a separate management letter.
- j. A statement that noncompliance or questioned costs noted were considered in forming an opinion as to whether the entity complied, in all material respects, with the requirements referred to above.
- k. An opinion as to whether the entity complied, in all material respects, with the State general and specific compliance requirements referred to previously for all major State assistance programs. (The reference to general requirements should be deleted for nonprofit corporations.)
- l. The audit firm's signature and the date.

Illustrative auditor's reports on legal compliance, which contain all of the required elements, are shown in Appendix A.

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Reference: GC-1
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Subject: General Compliance Public Debt

A. DEBTS OF COUNTIES, CITIES, TOWNS, AND SCHOOL DISTRICTS:

Compliance Requirement:

No debt in excess of total revenue for the current year shall be created by any county, city, town, or school district unless the proposition to create such debt shall have been submitted to a vote of qualified electors. (*Constitution of Utah, Article XIV, Sec. 3.*)

Suggested Audit Procedure:

Examine all new general obligation debt contracted for during the current year and determine if it exceeds total revenue of the governmental fund types for the current fiscal year. If so, determine if an election was held to approve such debt. Ensure that the maximum level of debt authorized was not exceeded.

B. LIMIT OF INDEBTEDNESS OF COUNTIES, CITIES, TOWNS, AND SCHOOL DISTRICTS:

Compliance Requirement:

Counties shall not contract for debt to an amount exceeding two percent of the fair market value of taxable property in the county. Cities, towns, and school districts shall not contract for debt to an amount exceeding four percent of the fair market value of taxable property in their jurisdictions. Cities and towns may incur a larger indebtedness for the purpose of supplying such city or town with water, sewer, or electricity when such public works are owned and controlled by the municipality. The additional indebtedness shall not exceed four percent for first and second class cities, and eight percent for third class cities and towns. (*Constitution of Utah, Article XIV, Sec. 4.*)

Suggested Audit Procedure:

Using the last county assessment of properties in the jurisdiction, compare the total fair market value of all taxable property in the jurisdiction to general obligation indebtedness of the entity.

Compliance Requirement:

The debt incurred shall be used strictly for the purpose of the county, city, town, or school district contracting for the debt. (*Constitution of Utah, Article XIV, Sec.5.*)

Suggested Audit Procedure:

Ensure that the proceeds of the debt were used only for the purposes of the entity contracting for the debt by examining expenditure ledgers and supporting documentation.

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Subject: General Compliance Public Debt

C. LIMIT OF INDEBTEDNESS FOR SPECIAL DISTRICTS:

Compliance Requirement:

The authority to issue bonds payable from taxes upon taxable property in the district shall be conditioned upon the assent of a majority of the qualified electors of the district. (*Constitution of Utah, Article XIV, Sec. 8.*) Limitations on bonded indebtedness is set by the laws authorizing the respective types of special districts, as follows:

<u>District Type</u>	<u>Bonding Capacity</u>
Cemetery Maintenance (17A-2-223)	No bonded indebtedness authorized unless approved by a majority of voters..
County Service Area (17A-2-423 to 424)	G.O. and revenue bonds may be issued. Bond election is not required when payable solely from service area revenues. Total debt may not exceed 12% of fair market value.
Fire Protection (17A-2-622 & 623)	Bonds limited to .4% of FMV and 8 years. Election required.
Health District (26A-1-114 and 115)	No bonded indebtedness authorized.
County Water and Sewer Improvement (17A-2-306 to 310)	G.O. bonds of the district require an election. Limit of 2.4% of FMV on G.O. debt. No limit on revenue debt and no election required on revenue debt.
Irrigation (17A-2-712)	Revenue debt only. No limit.
Drainage (17A-2-532 & 543)	No bonded indebtedness authorized, except through county.
Metropolitan Water (17A-2-818(3), 824)	Revenue bonds may be issued without election. Election must be held before issuing G.O. bonds. G.O. debt limited to 10% of FMV. No limit on revenue debt.
Mosquito Abatement (17A-2-908)	May issue bonds approved by the majority of voters not to exceed .0001 per dollar of taxable value in the district.
County Improvement (17A-2-306 & 307)	Special improvement bonds authorized, not to exceed the unpaid balance of assessments.
Municipal Improvement (17A-3-328)	Special improvement bonds authorized, not to exceed the unpaid balance of assessments.

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<u>District Type</u>	<u>Bonding Capacity</u>
Parking/Business Improvement (17A-3-412)	No bonded indebtedness authorized.
Public Transit (17A-2-1035)	Revenue bonds may be issued up to 3% of FMV.
Community and Renewal Agency (17C-1-501 to 508)	Board must adopt resolution authorizing issuance. Revenue bonds may be issued. No limit.
Special Service District (17A-2-1312 & 1317)	G.O. debt not to exceed 12% of FMV. G.O. debt requires approval at election. No limit on revenue debt.
Interlocal Agencies (11-13-218)	Revenue bonds may be issued with no limit.
Municipal Building Authority (17A-3-909 to 911)	Bonds shall not mature over 40 years or the estimated useful life of the project.
Water Conservancy (17A-2-1440)	G.O. bonds or revenue bonds may be issued but in either case an election must be held. (Some exceptions apply to revenue debt, specifically petitions against (17A-2-1440(5)(b))). No limits stated.

Suggested Audit Procedure:

For bonds issued during the current year, ensure that a bond election was held if required. Also, using the last county assessment of properties in the jurisdiction, compare the total fair market value of all taxable property in the jurisdiction to general obligation indebtedness of the entity.

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Subject: General Compliance Cash Management

Compliance Requirement:

All public funds shall be deposited daily, whenever practicable, but not later than three business days after receipt. (*Utah Code 51-4-2(2)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that public funds are deposited at least every three business days. When testing controls over cash receipts, ensure that the receipts were deposited within three business days of being received.

Compliance Requirement:

A public treasurer may conduct investment transactions only through qualified depositories, certified dealers, or directly with issuers of the investment securities. (*Utah Code 51-7-11(1)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that investment transactions are conducted only with authorized institutions. Examine investment transactions to determine if they were conducted only with those institutions authorized.

Compliance Requirement:

The remaining term to maturity of an investment may not exceed the period of availability of funds to be invested. For example, if the entity receives quarterly sales tax money that will be used during the following quarter for operating purposes, this money cannot be invested in one-year instruments because the investment will not mature before the funds are needed. (*Utah Code 51-7-11(2)*.)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that the terms of investments of public funds do not exceed the period of availability of those funds. Examine investments held both at year-end and during the year to ensure that the term of the investment did not exceed the availability of funds invested.

Compliance Requirement:

All public funds, other than funds held for employees under Internal Revenue Code Section 457, may be deposited or invested in those instruments and assets authorized in *Utah Code 51-7-11(3)*.

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that only authorized investments are purchased. Examine investments held during the year to ensure that they were authorized by *Utah Code 51-7-11(3)*.

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Subject: General Compliance Cash Management

Compliance Requirement:

The public treasurer shall ensure that all purchases and sales of securities are settled within 15 days of the trade date. There is an exception to this rule for tax anticipation, general obligations, bonds, notes, or other evidence of indebtedness of any county, city, town, school district, or other political subdivision of the state. (*Utah Code* Section 51-7-11(7)) Public treasurers must have custody (take delivery) of all securities purchased or held and all evidence of deposits and investments of public funds. Exceptions apply to nonqualifying repurchase agreements. This may be accomplished by having the securities delivered to a safekeeping custodian. (*Utah Code* 51-7-7)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that all securities transactions are settled within 15 days and that delivery is taken on all securities purchased. Examine purchases of securities to ensure that delivery was taken or that a safekeeping receipt was received.

Compliance Requirement:

Selection of investments shall be made with the exercise of that degree of judgment and care under circumstances then prevailing that persons of prudence and discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital, as well as the probable benefits to be derived. (*Utah Code* 51-7-14)
Also, public treasurers should meet the following objectives when investing public funds: (1) safety of principal; (2) need for liquidity; (3) yield on investments; (4) recognition of the different investment objectives of operating and permanent funds; and (5) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds. (*Utah Code* 51-7-17)

Suggested Audit Procedure:

Determine if the entity has a system of policies and procedures to ensure that investment transactions are undertaken in a prudent manner and that the above objectives are met.

Compliance Requirement:

The local government is responsible to submit certain funds to the State Treasurer, including: Wildlife Resources, State Boating Act, state surcharge in accordance with *Utah Code* 63-63a-1, Displaced Homemaker Fees, Property Tax Equalization - Assessment and Collection, B & C Road Fund (overweight assessment.)

Suggested Audit Procedure:

Determine if applicable funds were submitted to the State Treasurer on form C-500.

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Subject: General Compliance Cash Management

Compliance Requirement:

All public funds invested in deposit instruments should be invested with qualified depositories within Utah, except that if national market rates on instruments of similar quality and term exceed those offered by qualified depositories within the state, then investments in out-of-state deposit instruments may be made. (*Utah Code 51-7-17(4)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to compare in-state deposit rates with out-of-state deposit rates prior to making deposits out-of-state. Examine deposit transactions with out-of-state depositories to determine if similar rates could be obtained in state.

Compliance Requirement :

Every public treasurer shall secure a fidelity bond, based on the previous year's budgeted gross revenues, which includes all funds collected or handled by the public treasurer, in the amount shown in the table below. (*Utah Code 51-7-15 and Rule 4 of the Utah Money Management Council*)

<u>Budgeted Gross Revenue</u>			<u>Percent for Bond</u>		
\$0	to	10,000	n/a	but not less than	0
10,001	to	100,000	9%	but not less than	5,000
100,001	to	500,000	8%	but not less than	9,000
500,001	to	1,000,000	7%	but not less than	40,000
1,000,001	to	5,000,000	6%	but not less than	70,000
5,000,001	to	10,000,000	5%	but not less than	300,000
10,000,001	to	25,000,000	4%	but not less than	500,000
25,000,001	to	50,000,000	3%	but not less than	1,000,000
50,000,001	to	500,000,000	2%	but not less than	1,500,000
over		500,000,000		not less than	10,000,000

Suggested Audit Procedure:

Ensure that the public treasurer of the entity being audited is bonded for the proper amount by examining the bond document and/or by confirmation with the surety.

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Subject: General Compliance Purchasing Requirements

The Utah Procurement Code specifies general requirements for purchasing by local public procurement units. A local public procurement unit is any political subdivision of the State or an agency of any subdivision, public authority, and any other entity which expends public funds for the procurement of supplies, services, and construction. The Code specifically exempts counties, municipalities, and entities created by counties and municipalities under the Interlocal Cooperation Act from the requirements of this Code. However, the Uniform Fiscal Procedures Act for Cities requires cities to adopt an ordinance or resolution governing purchasing procedures. It also requires purchases to be made according to the purchasing procedures established by the city. There is nothing in the *Utah Code* which requires counties to adopt purchasing procedures. However, the Uniform Accounting Manual for Counties (II.F.06) states: "Each county should by ordinance or resolution, establish purchasing procedures that are not inconsistent with the appropriate sections of the Utah Procurement Code (63-56)."

A. COUNTIES, MUNICIPALITIES, AND INTERLOCAL AGREEMENTS:

Compliance Requirement:

Counties, municipalities, and interlocal agencies created by counties and municipalities must adopt purchasing policies and procedures. These entities must comply with these policies and procedures when procuring supplies, services, and construction.

Suggested Audit Procedure:

Determine if the county, municipality, or interlocal agency has adopted formal purchasing policies and procedures. While testing expenditures of the county, municipality, or interlocal agency, extend testwork to determine if purchases were made in accordance with the entity's purchasing policies.

B. ALL OTHER LOCAL PUBLIC PROCUREMENT UNITS:

Compliance Requirement:

Purchasing policies shall contain the following provisions, and purchases of supplies, services, and construction shall be made in accordance with those provisions.

1. Policies shall be adopted governing the preparation and content of specification for supplies, services and construction and the extent to which outside parties who have prepared specifications may participate in the procurement of these goods and services. (*Utah Code* 63-56-301)
2. All specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition, and shall not be unduly restrictive. (*Utah Code* 63-56-303)
3. Contracts shall be awarded by competitive sealed bidding or competitive sealed proposals except for small purchases, emergency purchases, or where there is only one source for the required supply, service, or construction item. An invitation for bids or proposals shall be issued by public notice. Bids/proposals shall be opened publicly. Bids/proposals shall be accepted without alteration except as provided by the Procurement Code. (*Utah Code* 63-56-401 and 408)

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Subject: General Compliance Purchasing Requirements

4. Rules and regulations may be made regarding the separate handling of small purchases. However, purchases shall not be artificially divided up so as to qualify for purchasing under the small purchases rules. (*Utah Code 63-56-409*)
5. Cost-plus-a-percentage-of-cost contracts are prohibited. (*Utah Code 63-56-416*)
6. A purchasing agent shall be appointed.
7. An appeals procedure shall be included.
8. An ethics in public contracting provision shall be included.

Suggested Audit Procedure:

Determine if the entity has the required purchasing policies and procedures. While testing expenditures of the entity, extend testwork to determine if purchases were made in accordance with the entity's purchasing policies.

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Subject: General Compliance Budgetary Compliance

The following budgetary compliance requirements are summarized for towns, cities, special districts, counties, and school districts. Specific legal requirements can be found in the following sections of the *Utah Code*:

Towns	<i>Utah Code, Section 10-5</i>
Cities	<i>Utah Code, Section 10-6</i>
Special Districts	<i>Utah Code, Section 17A-1, Part 4</i>
Counties	<i>Utah Code, Section 17-36</i>
School Districts	<i>Utah Code, Section 53A-19</i>

Compliance Requirement:

The governing body of the entity shall establish the time and place of the public hearing to consider the adoption of the budget and shall publish notice of the hearing at least seven days prior to the hearing in at least one issue of a newspaper of general circulation published within the county in which the entity is located. If no such newspaper is published, the required notice may be posted in three public places within the entity's jurisdiction. The tentative budget must be made available to the public for inspection for a number of days, as provided by law, prior to the budget hearing.

Suggested Audit Procedure:

Ensure that the entity provided the required notice for its budget hearing by reference to the certified copy of the notice. Also, ensure that the entity made the budget available to the public for the required period prior to the hearing.

Compliance Requirement:

At the time and place advertised, the governing body shall hold a public hearing on the tentatively adopted budget. All interested persons in attendance shall be given an opportunity to be heard on any item in the tentative budget.

Suggested Audit Procedure:

Review minutes of meetings of the governing body to ensure that the hearing was held as advertised. Comment on any actions taken which would appear to have limited the ability of persons to comment on the budget.

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Subject: General Compliance Budgetary Compliance

Compliance Requirement:

The governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal year for each fund which a budget is required (general funds, special revenue funds, debt service funds, capital project funds, and enterprise funds.) The budget should be adopted by the date provided by law.

Suggested Audit Procedure:

Review the minutes of meetings of the governing body to ensure that the budget was formally adopted.

Compliance Requirement:

Budgets of funds of governmental fund types may only be increased after the proper public hearing as required by law.

Suggested Audit Procedure:

Determine by inquiry if any changes have been made to governmental fund budgets. If total expenditures have increased, determine if a proper budget hearing was held in accordance with the applicable requirements by reference to certified copies of the published advertisement and by reference to minutes of the governing body's meetings.

Compliance Requirement:

Officers and employees of the entity shall not incur expenditures or encumbrances in excess of the total appropriation for any department or fund. For counties and municipalities State Law requires budget integrity at the following levels:

General Fund – Each department (If debt service is divided between principle and interest, Consider it combined.)

Special Revenue Fund – Each separate activity in total.

Capital Project Fund – Fund in total.

Debt Service Fund – Fund in total.

All other taxing entities by fund.

Suggested Audit Procedure:

Examine the entity's records and financial reports to determine if the expenditures for any department/fund exceed the amounts appropriated in the final adopted budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-4
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Subject: General Compliance Budgetary Compliance

Compliance Requirement:

If within any enterprise utility fund, allocations or transfers that are not reasonable allocations of costs between funds are included in a tentative budget, a written notice of the date, time, place and purpose the hearing shall be mailed to utility fund customers at least seven days before the hearing. The notice shall include the enterprise utility fund from which money is being transferred and the fund to which the money is being transferred.

Suggested audit procedure:

Examine the budget for any transfers from the enterprise utility fund(s). Determine the purpose of each transfer. If it is determined that any of the transfers are other than a reasonable allocation of costs between funds, examine the notice of public hearing that went out to the utility customers informing them of the hearing. Verify that the notices contained all of the information required and was mailed out at least seven days before the scheduled time of the hearing.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-5
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Subject: General Compliance Truth in Taxation and Property Tax Limitations

Compliance Requirement:

The governing body of each taxing entity shall, before June 22 of each year, adopt a proposed rate or, if the tax rate is not more than the certified tax rate, a final tax rate for the taxing entity. The governing body shall report the rate and levy to the county auditor. (*Utah Code 59-2-912*) (June 22 is an advisory date.)

Suggested Audit Procedure:

Examine the ordinance or resolution or governing body minutes setting the tax rate. Ensure that the rate was adopted and reported to the county auditor. The auditor is not required to test for compliance with the June 22 date.

Compliance Requirements:

If the governing body proposes a tax rate exceeding the certified tax rate, the following requirements must be met:

1. The entity must notify the county that it will hold a tax increase hearing on the date previously set. The county must include the information on the proposed increase and the date and time of the hearing in its *Notice of Valuation and Tax Changes*. This notice must be mailed at least ten days prior to the hearing date. (*Utah Code 59-2-919*)
2. The entity must advertise its intent to exceed the certified tax rate in a newspaper of general circulation in the county. The advertisement must appear once each week for the two weeks preceding the hearing. The date of the advertisement must be at least 7 days prior to the hearing. (*Utah Code 59-2-919*)
3. The advertisement must be at least a quarter page in size and must not be placed in the portion of the newspaper where legal notices and classified advertising appear. The type used shall not be less than 18, and shall be surrounded by a ¼ inch border. (*Utah Code 59-2-919*)
4. The hearing must be held on the date and at the time advertised. (*Utah Code 59-2-919*)
5. The governing body must adopt an ordinance or resolution setting the tax rate and certify that rate to the county auditor. (*Utah Code 59-2-919 and 920*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that property tax rates are set as prescribed by law. Ensure that the entity provided the proper notice and advertising in accordance with the compliance requirements noted above by examining the county's *Notice of Valuation and Tax Changes* and the certified copy of the advertisement. Examine minutes of the meetings of the governing body to ensure that the hearing was held as advertised. Examine the ordinance setting the tax rate and ensure that it was forwarded to the county auditor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Truth in Taxation and Property Tax Limitations

Compliance Requirement: (Counties Only)

The *Notice of Valuation and Tax Changes* must be mailed at least ten days before the Board of Equalization meets to consider appeals of property tax valuations. (*Utah Code 59-2-919(2)*)

Suggested Audit Procedure:

Determine the date that the *Notice of Valuation and Tax Changes* was sent and ensure that the Board of Equalization did not begin hearing appeals until ten days later (by reference to the minutes of the Board of Equalization).

Compliance Requirement: (Counties Only)

The county board of equalization must consider all appeals brought before it and make a final decision on each appeal within a 60 day period after the day on which the application is made. (*Utah Code 59-2-1004*)

Suggested Audit Procedure:

Review the appeals received by the Board of Equalization and the minutes of the Board to ensure that all appeals have been heard and that it completed its work within the 60 day period after application is made. Or, if all appeals have not been heard, ensure that written permission to extend the board was obtained by the county from the Tax Commission.

Compliance Requirement: (Counties Only)

The county treasurer must disburse all tax monies collected during the preceding month to the appropriate taxing entities by the tenth day of each month. (*Utah Code 59-2-1365*)

Suggested Audit Procedure:

On a test basis, determine if the county made monthly disbursements of property taxes received in the previous month by the tenth of the month.

Compliance Requirement:

The taxing entity shall report all property taxes levied in the appropriate fund. For example, property taxes levied to meet debt service requirements should be reported in the Debt Service fund. Because of the specific levy, these tax revenues are restricted. In addition, because of the restriction, the entity generally should not subsequently transfer these property tax revenues to other funds. The primary exception to the no-transfer requirement would be when there is a residual equity transfer when a fund is closed out.

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Suggested Audit Procedure:

Determine the property tax collection rate for the entity. Based on the collection rate, calculate the amount of property tax that should have been allocated to each fund. Determine if the entity reported the proper amount in each fund. If any property tax revenues are subsequently transferred to other funds, verify that they are residual equity transfers to close out a fund. If the transfer is not a residual equity transfer, verify that the transfer is specifically allowed by State law, and is not an attempt to avoid the provisions of truth-in-taxation.

Compliance Requirement:

The Tax Commission requires the filing of form TC-693 *Tax Rate Summary*. The form includes a column "Budgeted Revenue." The amounts in that column should be the same as the revenue amounts in the entity's adopted budget.

Suggested Audit Procedure:

Determine that the amounts in the "Budgeted Revenue" column of form TC-693 are the same as the revenue amounts of the county's adopted budget.

STATE OF UTAH

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Subject: General Compliance Liquor Law Enforcement

TYPES OF AGREEMENTS

Allocated Per *Utah Code*

TYPES OF RECIPIENTS

Cities
Counties
Towns

SOURCE OF AUTHORIZATION AND REGULATIONS

Utah Code 32A-1-115(1)

A. PROGRAM OBJECTIVES:

To provide additional funds for projects which prevent, detect, or prosecute alcohol-related offenses. Funds are distributed based on population; convictions for alcohol-related offenses; the number of state liquor stores, package agencies, and liquor licensees in the jurisdiction; and the number of confinements and rehabilitation facilities.

B. PROGRAMS PROCEDURES:

Cities, towns, and counties submit qualification letters to the Tax Commission. The Department of Alcoholic Beverage Control provides the number of outlets by location. The State Court Administrator's Office provides the number of DUI/alcohol-related convictions by location. These factors are used to distribute the funds per State law. It is recommended that activities financed from these funds be accounted for in a separate account.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED:

Compliance Requirement:

Funds can be used on programs or projects for the prevention, detection, or prosecution of alcohol-related offenses. Counties may also use funds for construction or maintenance of facilities for confinement or rehabilitation.

Suggested Audit Procedure:

Test expenditures to determine if Liquor Law Enforcement funds were used only for the prevention, detection, or prosecution of alcohol-related offense or the construction of facilities for confinement or rehabilitation.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Liquor Law Enforcement

2. ELIGIBILITY

Compliance Requirements:

Funds are available to all incorporated towns, cities, and counties. Entities are required to submit a letter detailing the programs for which funds will be used. Funds are distributed based on formula.

Suggested Audit Procedure:

The Auditor is not required to test eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING

Compliance Requirement:

Liquor Law Enforcement funds are intended to supplement the budget of Law Enforcement Agencies, and are not intended to replace funds which would otherwise be allocated for law enforcement and confinement or rehabilitation of persons arrested for or convicted of alcohol-related offenses.

Suggested Audit Procedure:

This requirement can only be adequately tested in the first year of the grant. It is important, however, for the client to comply with C.1.

4. REPORTING

There are no reporting requirements.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: Justice Courts Compliance

Article VIII, Section 1 of the Utah Constitution creates what is known as the Justice Courts, which are courts “not of record” and are operated by either the county or municipality in which they are located. The territorial jurisdiction of a county justice court extends to the limits of the precinct for which the justice court is created and includes all cities and towns within the precinct, except cities where a municipal justice court exists. The territorial jurisdiction of a municipal justice court extends to the limits of the city or town boundaries for which it was created. Approximately two-thirds of all justice courts are municipal courts. (See *Utah Code* 78-5-101 through 103)

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A. DEPOSITS OF RECEIPTS:

Compliance Requirements

1. *Utah Code* Section 78-5-135 requires the following: Municipal and county justice courts shall deposit public funds in accordance with Section 51-4-2. The city or county shall then apportion and remit in accordance with *Utah Code* Section 78-5-116 and 78-5-116.5.

Utah Code Section 51-4-2(2)(a) requires all receipts be deposited daily when practicable but not later than three days after receipt.

Utah Code Section 51-4-2(4)(a) states that all justice courts, having funds due to the State or any political subdivision, shall on or before the 10th day of the month, pay all funds received within the preceding month to the appropriate public treasurer.

TO SUMMARIZE: the law requires funds collected be deposited within three days after receipt into an account controlled by the county or municipal treasurer. The local government treasurer’s receipt should detail the cash/check composition. It must be distributed to the State and other governmental entities by the 10th of the following month.

2. Local Government Bank Account Reconciliation – Receipt and disbursement of trust funds including bail, restitution, unidentified receipts, and other money that requires special accounting should be detailed in the local government’s general ledger and court records so a reconciliation can be performed per UC 10-6-139; UC 10-6-141; UC 17-19-1(3); UC 17-24-11; UC 59-10-529; UC 78-5-135(4).

Court Trust Bank Account Reconciliation - With the approval of the governing body, a trust or revolving account may be established in the name of the justice court for the deposit of bail, restitution, unidentified receipts, and other money that requires special accounting. The account shall be reconciled at least quarterly by the governing body. (See *Utah Code* 78-5-135(4))

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B. DISPOSITION OF RECEIPTS:

Compliance Requirements

1. The court shall impose a surcharge on all criminal fines, penalties and forfeitures. The surcharge shall be 85% upon conviction of a felony or class A misdemeanor (Title 41, Chapter 6a, Part 5, Driving While Intoxicated and Reckless Driving); or any class B misdemeanor not classified within Title 41, including violation of comparable county or municipal ordinances. The surcharge is 35% upon conviction of any other offense, including violation of county or municipal ordinance not subject to the 85% surcharge, except: non-moving traffic violations and when the court orders the offender to perform community service work in lieu of paying a fine. This surcharge shall be paid to the state treasurer. The city or county shall not amend the violations charged to avoid assessing, collecting, and remitting surcharge to the state treasurer. (See *Utah Code* Section 63-63a-1)

The surcharge under this section shall be imposed in addition to the fine charged for a criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition. (See *Utah Code* Section 63-63a-1(4)).

The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed shall be collected concurrently. As monies are collected on criminal fines, penalties, and forfeitures subject to the 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting entity retains 54% of the collected monies and the state retains 46% of the collected monies. As monies are collected on the criminal fines, penalties, and forfeitures subject to the 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected monies and the state retains 26% of the collected monies. The court shall deposit with the state treasurer the surcharge portion of all monies as they are collected. (See *Utah Code* Section 63-63a-2)

2. In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$32 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations. (See *Utah Code* Section 78-5-116.5)

The security surcharge shall be collected and distributed pro rata with any fine collected. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

The security surcharge shall be allocated as follows:

- (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and
- (b) 80% shall be remitted to the state treasurer to be distributed as follows:
 - (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located;
 - (ii) 25% to the Court Security Account created in Section 63-63c-102; and
 - (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78-5-116.7.

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The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

3. In addition to any surcharge imposed under Section 63-63a-1, a traffic mitigation surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by a court within a county of the first class, as defined in Section 17-50-501, (counties having a population of 700,000 or more). The traffic mitigation surcharge is \$10 upon conviction of any moving traffic violation, including a violation of county or municipal ordinances.

The traffic mitigation surcharge may not be imposed upon nonmoving traffic violations, upon court orders when the offender is ordered to perform community service work in lieu of paying a fine, or upon penalties assessed by the juvenile court as part of the non-judicial adjustment of a case under Section 78-3a-502.

The traffic mitigation surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is a separate issue and does not affect the imposition or collection of the traffic mitigation surcharge. (See *Utah Code* Section 63-63b-101 repeal date July 1, 2007)

The traffic mitigation surcharge shall be imposed in addition to the fine charged for a criminal offense, and no reduction may be made in the fine charged due to the traffic mitigation surcharge imposition.

The amount of the traffic mitigation surcharge and the amount of criminal fines, penalties, and forfeitures imposed under Section 63-63b-101 by courts not of record shall be collected concurrently. As monies are collected on criminal fines, penalties, and forfeitures subject to the traffic mitigation surcharge, the local governmental collecting entity shall retain all of the collected monies if the citation was issued within the local government's jurisdiction, if the citation was issued outside the local government collecting entity's jurisdiction, the traffic mitigation surcharge shall be remitted to the state treasurer. (See *Utah Code* Section 63-63b-102 repeal date July 1, 2007)

4. The municipal/county court treasurer shall report to the city recorder or county auditor, as applicable, the sums collected and deposited. The city recorder or county auditor shall then apportion and remit the collected proceeds according to law, as follows: (See *Utah Code* Section 78-5-116)

Except as provided below:

- (a) Fines and forfeitures collected by a justice court shall be remitted one-half to the treasurer of the local government responsible for the court and one-half to the treasurer to the local government which prosecutes the violation.
- (b) Fines and forfeitures collected for violation of Title 23 (wildlife violations) 85% of the fine or forfeiture shall be remitted to the State Treasurer (for allocation to the Division of Wildlife Resources) and 15% to the local government responsible for the justice court.

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- (c) Fines and forfeitures collected for violation of Title 73, Chapter 18 (Boating Act) 85% of the fine or forfeiture shall be remitted to the State Treasurer (for allocation to the Division of Parks and Recreation) and 15% to the local government responsible for the justice court.
 - (d) Fines and forfeitures collected for violation of Title 41, Chapter 22, Off-highway Vehicles shall be remitted to the State Treasurer for allocation to the Division of Parks and Recreation) and 15% to the local government responsible for the justice court.
 - (e) Until July 1, 2007, fines and forfeitures collected by the court for a violation of Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall be remitted:
 - 50% to the state of local governmental entity which issued the citation for a violation to be used for law enforcement purposes; and
 - 50% in accordance with Utah Code 78-5-116(1).
 - (f) Fines and forfeitures collected for violation of Title 53B, Chapter 3, (Enforcement of Regulations at Institutions) shall be remitted 100% to the State Treasurer for allocation to the general operating fund of the state institution of higher education complaining of the violation.
5. The court may, upon acceptance of a plea in abeyance agreement and pursuant to the terms of the agreement order the defendant to pay a nonrefundable plea in abeyance fee, which shall be allocated in the same manner as if it had been paid as a fine (*Utah Code 77-2a-3(5)*). The plea in abeyance fee must not exceed the suggested bail amount for the offence. The plea in abeyance fee is subject to the same surcharge as if imposed on a criminal fine. The city recorder or county auditor shall then apportion and remit the collected proceeds according to the law. (See *Utah Code* Section 78-5-116).

For any compromise of traffic charges (referral to traffic school, class, or remedial or rehabilitative program) the limitations of Utah Code 77-2-4.2 apply.

In all cases which are compromised pursuant to Utah Code 77-2-4.2, the court shall collect a plea in abeyance fee, which is subject to the same surcharge as if imposed on a criminal fine, and is allocated per Utah Code 63-63a.2 and be not more than \$25 greater than the bail designated in the Uniform Bail Schedule.

In no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected (if the underlying offense is surchargeable.) The surcharge is collected and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge (see 1. above).

Traffic school fees not subject to the surcharge and paid to the court (not paid directly to the traffic school vendor) shall be remitted to the treasurer of the local government responsible for the court.

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6. Fines and forfeitures collected by a municipal or county justice court for a violation of *Utah Code* 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, shall be paid to the State Treasurer. In addition to the fines and forfeitures, the court is allowed to charge a fee (court cost) according to a schedule authorized by the Administrative Office of the Courts. The fee schedule is as follows:

\$50 for a case that goes to trial
\$50 for a case that involves judge time, but is resolved short of trial
\$50 for a case that is resolved through bail forfeiture proceeding that requires only clerk, not judge time.

7. The court may, at sentencing, assess against the defendant, in addition to any fine and surcharge, an amount that would fully compensate agencies that treat the defendant for violations addressed in *Utah Code* 41-6-44 (Alcohol and Drugs). The assessments may, pursuant to the court order, either:

- (a) be collected by the clerk of the court in which the person was convicted; or
- (b) be paid directly to the licensed alcohol or drug treatment program.

Those assessments collected by the court shall either be forwarded to the state treasurer for credit to a special account in the General Fund, designated as the "Intoxicated Driver Rehabilitation Account", or forwarded to a special non-lapsing account created by the county treasurer of the county in which the fee is collected. (*Utah Code* 62A-15-502 and 503)

8. The municipality shall retain all small claims filing fees, expungement fees, and fees for filing a Trial de Novo, including the government filing fee for accounts filed by the municipality. (See *Utah Code* 78-5-135-1c; *Utah Code* 78-6-14)
9. The county shall retain all small claims filing fees, expungement fees, and fees for filing a Trial de Novo, including the governmental filing fee for actions filed by the county. (See *Utah Code* 78-5-135-2c and *Utah Code* 78-6-14)
10. Money received or collected on any civil process or order issued from a justice court shall be paid within seven days to the party entitled or authorized to receive it. (See *Utah Code* 78-5-126)

C. REPORTS:

Compliance Requirement

1. Every justice court judge shall file monthly with the State Court Administrator a report of the judicial business of the judge. The report shall be on forms supplied by the State Court Administrator. The report shall state the number of criminal and small claims actions filed, the disposition entered, and other information as specified in the forms. A copy of the report shall be furnished by the justice court judge to the governing body in the municipality or county, or to the person or office in the county, city, or town designated by the governing

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body. (See *Utah Code* 78-5-130)

Suggested Audit Procedures

1. Select a sample of cases filed at the justice court that indicate full or partial payment has been received. Verify timely deposits, disposition (allocation and disbursement) of the related surcharges, fines, fees, assessments, and forfeitures and required reporting in accordance with *Utah Code*.
2. Select a sample of fine or bail dismissals, suspension, or credits. Verify that dismissal or amounts suspended were pursuant to judicial order or the Uniform Fine & Bail Schedule and CJA 4-704 when requirements are met. Verify that credits to amounts previously ordered are specified in the judicial order or outlined in the Uniform Fine/Bail Schedule. Documented proof of compliance e.g. completion of community service, completion of alcohol treatment, proof of valid registration, proof of repair of faulty equipment or other judicially specified reason, is placed in the case file attached to the citation and/or with the daily accounting records. Verify that an appropriate reason or explanation was provided in each case.
3. Examine the disposition of a sample of trust fund deposits made to the local government's bank account or the court's trust revolving account. Determine if trust account funds are receipted and disbursed upon a court order (mandatory appearance case; or voluntary bail forfeiture) within a prescribed period of time by the city/county treasurer and state statutes per UCA 78-5-135.
4. Review a sample of dismissed cases/charges for proprietary. (See 2 above.)
5. Verify that the county or municipality is reconciling the court trust account described above. Verify that the county or municipality is remitting abandoned and unclaimed property according to Chapter 4a of the Unclaimed Property Act (specifically *Utah Code* Section 67-4a-210, 67-4a-207 and 67-4a-301).

Note: The Uniform Fine/Bail Schedule used by the sentencing judge provides:

- 1) A dollar amount in the fine column that INCLUDES the appropriate surcharge; or
- 2) The words "SEE MATRIX" in the fine column, the reader should refer to the misdemeanor matrix" guidelines for setting Fines and Surcharge after adjudication of a case requiring mandatory appearance. The dollar amounts in the matrices DO NOT INCLUDE any surcharge. An 85% surcharge should be added to any fine imposed from the matrices.

If it is determined that the fine amount was assessed using the Uniform Fine/Bail schedule as described above, the surcharge amount can be derived by performing the following calculation:

TOTAL AMOUNT/1.35 or 1.85 (applicable surcharge)="FINE" Portion of Total
TOTAL AMOUNT/ "FINE" Portion of Total = SURCHARGE Portion of Total

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The following table summarizes the disposition of fines, fees, and forfeitures.

DISPOSITION OF JUSTICE COURT FINES, FEES, AND FORFEITURES

Receipt	Type of Ordinance	Disposition
Surcharge	85% Felony Surcharge or class A misdemeanor, Title 41, Chapter 6a, Part 5 DUI & Reckless Driving or any class B misdemeanor not classified within Title 41. 35% Surcharge on any other offense except non-moving traffic violation or when community service is ordered in lieu of fine (UC 63-63A-1)	State Treasurer according to UC 63-63a-2(2)(a)(b)
Security Surcharge	A security surcharge of \$32 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations. (UC 78-5-116.5)	<p>The security surcharge shall be allocated as follows:</p> <ul style="list-style-type: none"> (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and (b) 80% shall be remitted to the state treasurer to be distributed as follows: <ul style="list-style-type: none"> (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located. (ii) 25% to the Court Security Account, created in Section 63-63c-102; and (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78-5-116.7. <p>The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act. (UC 78-5-116.5(3) and (4).</p>

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Fines and Forfeitures (not otherwise listed below)	Municipal or County (UC 78-5-116(1))	½ to Local Gov. responsible for court ½ to Local Gov. which prosecutes case
Fines and Forfeitures	Wildlife, UC 23 (UC 78-5-116(2)(a))	85% to State Treasurer for distribution to the Wildlife Division 15% to Local Gov. responsible for court
Fines and Forfeitures	Off-Highway, UC 41-22 (UC 78-5-116(2)(b))	85% to State Treasurer (for distribution to the State Div. of Parks & Recreation). 15% to Local Gov. responsible for court
Fines and Forfeitures	Boating Act, UC 73-18 (UC 78-5-116(2)(b))	85% to State Treasurer (for distribution to the Div. of Parks & Recreation). 15% to Local Gov. responsible for court
Fines and Forfeitures	Maximum weight limits & Overweight permits UC 72-7-404, 406. (UC 78-5-116(4))	100% to the State Treasurer (for distribution to the State Class B & C road account).
Fines and Forfeitures	Until July 1, 2007, fines and forfeitures collected by the court for a violation of Subsection 41-1a-1303(2)	50% to the state or local governmental entity which issued the citation for a violation to be used for law enforcement purposes; and 50% in accordance with
	related to registration of vehicles after establishing residency. (UC 78-5-116(6))	UC 78-5-116(1).
Fines and Forfeitures	UC 53B-3-107 Traffic violations (State Institutions of Higher Education.)	100% to the State Treasurer (to be credited to the general operating fund of institution of higher education).
Fees on Overweights & Over Permits	Admin. Office of Courts. \$50 trial case; case w/judge time; or bail forfeiture	½ to Local Gov. which prosecutes case ½ to Local Gov. responsible for court
Plea in Abeyance Fees	UC 77-2a-3(5) UC 77-2-4.2(3)(a)(3) In all cases which are compromised pursuant to the provisions of Subsection (2): (a) the court, taking into consideration the offense charged, shall	State Treasurer (surcharge portion), remaining portion ½ to Local Gov. which prosecutes case ½ to Local Gov. responsible for court

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collect a plea in
abeyance fee which
shall:

- (i) be subject to the same surcharge as if imposed on a criminal fine;
- (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78-3-14.5 and a surcharge under Title 63, Chapter 63a, Crime Victim Reparation Trust
- (iii) be not more than \$25 greater than the bail designated in the Uniform Bail Schedule.

Fees Charged for Traffic
School, Class, or Other
Rehabilitative Program

UC 77-2a-3(5)
UC 77-2-4.2

If no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected. The surcharge is collected and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge.

State Treasurer (surcharge portion), local government, or traffic school provider.

DUI Assessment

Full compensation for treatment (UC 62A-15-502 and 503)

State Treasurer, local government, or rehabilitation agency

Small Claims Filing Fee

UC 78-6-14(2); UC 78-5-135;

City or Town; County

Expungement for a petition
For expungement

\$65 UC 77-18-11;

City or Town; County

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Subject: Justice Courts Compliance

\$10 fee in the justice court	UCA 78-5-135	City or Town; County
for filing a notice of appeal	UCA 78-6-14	
for trial de novo in a court of		
record.		

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance B and C Road Funds

TYPES OF AGREEMENTS: Appropriation/Formula

TYPES OF RECIPIENTS: Cities & Towns
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 72-3-103 to 110, 72-6-108 to 110, 72-2-107 to 110 and 72-7-106.*
Regulations Governing Class B and Class C Road Funds, 1999 Revision.

INFORMATION CONTACT: UDOT - Local Government Programs Engineer
Brett L. Hadley 965-4366 or Kevin Anderson 964-4542; Fax 965-4551

A. PROGRAM OBJECTIVES:

To provide funding as a means for assisting counties and incorporated municipalities with the construction and maintenance of county roads and city and town streets throughout the State.

B. PROGRAM PROCEDURES:

The funding for the Class B and C Roads comes from 30% of the state highway user taxes. The funds are appropriated to the counties and municipalities based upon the following formula:

1. 50% in the ratio that the entity's weighted road mileage bears to the total Class B and C weighted road mileage in the state. (Weighted road mileage is further defined in the *Utah Code, Section 72-2-108.*)
2. 50% in the ratio that the entity's total population bears to the state's total population as of the last official census, revenue sharing estimate, or Bureau of Census estimate, whichever is most recent, except that if population estimates are not made for an entity by the U.S. Bureau of Census, population figures shall be determined according to the biennial estimate from the Utah Population Estimate Committee. (*Utah Code, Section 72-2-108*)

The funds in the Class B and C road account shall be expended under the direction of the State Transportation Commission in such manner as the Legislature shall provide. (*Utah Code, Section 72-2-107*) Permissible uses include, but are not limited to, the uses listed in Section IV of the Regulations Governing Class B and C Road Funds, 2001 Revision.

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C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED:

Compliance Requirement:

Permissible Uses

Including, but not limited to, the following:

- a. All construction and maintenance on eligible Class B and C roads (*Utah Code, Sections 72-3-103 to 72-3-104*)
- b. Sidewalks, curb and gutter (on all eligible roads and state highways), safety features, traffic signals, and traffic signs (*Utah Code, Section 72-8-104*) (Bicycle Paths in B&C Roads)
- c. Investments for interest purposes (interest to be kept in the fund)
- d. Equipment purchases or equipment leases and rentals
- e. Engineering and administration
- f. Future reimbursement of other funds for large construction projects
- g. Rights of way acquisition, fencing, and cattle guards
- h. Matching federal funds (*Utah Code, Section 72-2-110*)
- i. Equipment purchased with B and C funds may be leased from the road department to another department or agency using the rental rate established by the current *Cost Reference Guide for Construction Equipment*, distributed by K-3 Directory Corp., 1735 Technology Dr., San Jose, California 95110, phone 1-800-669-3282 or Federal Emergency Management Agency (FEMA) schedule of equipment rates.
- j. Construction of road maintenance buildings, storage sheds, and yards. Multiple use facilities may be constructed by mixing funds on a proportional basis.
- k. Construction and maintenance of alleys

Non-Permissible Uses

Including, but not limited to, the following:

- a. Non-road uses
- b. Police Costs
- c. To pay for rental on equipment which was previously purchased with B&C road funds

(Section IV of the Regulations Governing Class B and C Road Funds, 2001 Revision)

Suggested Audit Procedure:

Test the B and C road fund expenditures to determine whether the costs were incurred only for permissible uses.

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Subject: General Compliance B and C Road Funds

2. ELIGIBILITY:

Compliance Requirement:

Class B and C funds may be used only for construction and maintenance on eligible B and C roads. (B and C roads are defined in Sections 72-3-103 and 104; maintenance and construction are defined in Section 72-6-109.) Roads or streets with locked gates or restrictive signing will not be included as eligible roads. (*Utah Code, Section 72-7-106*) Eligibility requirements for Class B and C roads and streets are explained in Section VI of the Regulations Governing Class B & Class C Road Funds, 2001 Revision.

Suggested Audit Procedures:

Test the B and C road fund expenditures to determine whether the costs were incurred only for eligible roads.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS:

No matching funds are required from the county or the municipality.

4. SPECIAL TESTS AND PROVISIONS:

Compliance Requirement:

Counties, cities, and towns shall cause to be made plans, specifications, and estimates preparatory to the construction of any project on a Class B or C road, when the estimated cost for any one project exceeds \$125,000 for labor, equipment, and materials. (*Utah Code, Sections 72-6-108 and 109*)

Suggested Audit Procedure:

Review project files to verify that the appropriate documents were prepared.

Compliance Requirement:

All construction plans, specifications, and estimates required by Section 72-6-108 and all construction work shall be prepared and performed under the direct supervision of a registered professional engineer who shall certify to the governing officials that all road construction projects conform to design and construction standards as currently adopted by the American Association of State Highway and Transportation Officials. (*Utah Code, Section 72-6-110*)

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance B and C Road Funds

Suggested Audit Procedure:

Review the entity's files to determine that all construction work was prepared and performed under the direction of a registered professional engineer, and that the engineer has provided the required certification to the governing officials.

Compliance Requirement:

All projects in excess of \$125,000 for labor, equipment, and materials shall be performed under contract let to the lowest responsible bidder. Whenever the estimated cost of the construction exceeds the sum of \$125,000 for labor, equipment, and materials, the same shall not be so divided as to permit the construction in several parts, except by contract. (*Utah Code, Section 72-6-108*)

Suggested Audit Procedure:

Review selected files to determine adherence with the prescribed procedure.

Compliance Requirement:

Where the estimates of a qualified engineer referred to in Section 72-6-108 are substantially lower than any responsible bid received or in the event no bids are received, the county or city may perform the work by force account. (*Utah Code, Section 72-6-109*) "Substantially lower" means that the low bid is more than 10% higher than the engineer's estimate.

Suggested Audit Procedure:

Review the supporting documents for projects estimated to cost more than \$125,000 where the work was performed by force account. Determine that proper procedures were followed. Equipment costs are to be determined using the *Cost Reference Guide for Construction Equipment* by K-3 Directory Corp or the Federal Emergency Management Agency schedule of equipment rates.

Compliance Requirement:

The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under *Title 11, Chapter 14, the Utah Municipal Bond Act*, to pay the costs of constructing, repairing, and maintaining class B or C roads and may pledge class B or C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds. (*Utah Code, Section 72-2-108*)

Suggested Audit Procedure:

Verify that bonds and bond payments comply with this requirement.

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Page: 5 of 6
Subject: General Compliance B and C Road Funds

Compliance Requirement:

The advertisement for bids on B and C roads shall be published in a newspaper of general circulation in the county in which such work is to be performed at least once a week for three consecutive weeks, or if there is no such newspaper, then after posting such notice for at least twenty days in at least five public places in the county. Sealed bids shall be received by the governing officials and opened at the time and place designated in the advertisement, and the contract awarded (provided that the governing officials shall have the right to reject any and all bids and provided that the person, firm, or corporation to whom any such contract is awarded) shall be subject to all provisions of *Title 63, Chapter 56, Utah Procurement Code. (Utah Code, Section 72-6-108)*

Suggested Audit Procedure:

Review the entity's project files to verify that the advertising requirements were followed.

Compliance Requirement:

If any payment on a contract with a private contractor for work on a class B or C road is retained or withheld, it shall be placed in an interest bearing account and the interest shall accrue for the benefit of the contractor and subcontractors to be paid after the project is completed and accepted by the governing officials. (*Utah Code, Section 72-3-108(6)*)

Suggested Audit Procedure:

Review contractor payments and verify that any withholdings from the payments have been deposited in an interest bearing account and that the interest accrues to the benefit of the contractors.

Compliance Requirement:

Any local authority desiring to allow its Class B and C road funds to accumulate until such time as sufficient funds are available for more extensive road projects, can invest said monies in government offerings or time certificates of deposit for interest earning purposes. All interest thus earned is to be credited to the local entity's B and C road fund account. (Regulations Governing Class B and Class C Road Funds, 2001 Revision.)

Suggested Audit Procedure:

Verify that the funds have been deposited as required and that the interest has been credited to the entity's B and C road fund account.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance B and C Road Funds

Compliance Requirement:

The salaries of County Officers are to be paid monthly from the General Fund. The General Fund shall not be reimbursed from the Class B road fund for the cost of County Officers for the current year or previous years. (*Utah Code, Section 17-16-18*)

Suggested Audit Procedures:

Verify that Class B road funds are not being used to reimburse the General Fund for the cost of County Officers during the current year or for previous years.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-9
Page: 1 of 4
Subject: General Compliance Special Service and Local Districts

Title 17A, 17B and other sections of the *Utah Code* contain legal requirements for districts. Because there are numerous districts, there are also numerous specific requirements for specific districts. There are, however, certain requirements that pertain to all districts.

A. BUDGETARY AND REPORTING REQUIREMENTS:

Besides the usual budgetary requirements found in 17B-1-605 through 610 and the usual reporting requirements found in 51-2A of the *Utah Code*, there are the additional requirements found in 17B-1-701 to 703.

Compliance Requirements:

1. Within 30 days after the tentative budget is approved by the board, and at least 30 days before the board adopts a final budget, the board of each independent special district with an annual budget of \$50,000 or more shall send a copy of its tentative budget and notice of the time and place for its budget hearing to each of its constituent entities and customer agencies that have requested a copy in writing along with a signature sheet.
2. Within 30 days after it is presented to the board, the board of each independent district shall send a copy of its audit report to each of its constituent entities and customer agencies that have requested a copy in writing.
3. Constituent entity means any county, city, or town that levies property taxes within the boundaries of the district.

Customer agency means those governmental entities, except school districts, institutions of higher education, federal government agencies that purchase or obtain services from the special districts.

Suggested Audit Procedures:

Determine if the district has sent the budget or financial statements to the constituent entities and/or customer agencies by obtaining a representation from management that the entity has complied with this requirement.

B. TELEPHONE LISTING:

Compliance Requirement:

Section 17B-1-112 of the *Utah Code* requires each local district with a total annual budget over \$5,000 to provide the name, telephone number, and address of the district to the telephone directory publisher serving the geographic area within which the district is located; and request the telephone directory publisher to publish the district's name, telephone number, and address in the government or other appropriate government-related section of the publisher's telephone directory that serves the area within which the district is located.

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Reference: GC-9
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If the district does not have a telephone or address or both, the district shall provide the telephone number or address or both, as the case may be, of the district's officer in charge of the district's day to day operations, for and in the place of the telephone number or address or both of the district.

If the local district's name, telephone number, and address are published in the government or other appropriate government-related section of the telephone directory of the telephone directory publisher serving the geographic area within which the local district is located the district does not have to continue providing notice to the telephone directory publisher.

Suggested Audit Procedure:

Request a representation, in the management representation letter, stating that management has complied with section 17B-1-112 if the *Utah Code* requiring the district to provide the required information to the publisher of the local telephone directory. (Note: It is not required that the district be listed, since the actual listing is beyond the district's control.)

C. NEPOTISM:

Compliance Requirement:

The *Utah Code*, section 52-3, states that, except under specific circumstances, no public officer may employ, appoint, vote for, recommend the appointment of, or supervise a relative, when the salary, wages or compensation of that relative will be paid from public funds.

Suggested Audit Procedure:

Request a representation, in the management representation letter, stating that management has complied the Nepotism Act as found in section 52-3 of the *Utah Code*.

D. ETHICS:

Compliance Requirement:

The law prescribes standards of conduct for officers and employees of the State's political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-9
Page: 3 of 4
Subject: General Compliance Special Service and Local Districts

Suggested Audit Procedure:

Request a representation, in the management representation letter, stating that management, the governing board and employees have complied with standards of conduct as found in section 67-16 of the *Utah Code*.

E. BOARD MEMBER QUALIFICATION:

Compliance Requirement:

Except for the exemptions per 17B-1-311(3), Section 17B-1-311(1) and (2) of the *Utah Code* states that no elected or appointed member of the board of trustees may, while serving on the board, be employed by the district, whether as an employee or under contract. No person employed by a local district, whether as an employee or under contract, may serve on the board of that local district.

Suggested Audit Procedure:

1. Request a representation, in the management representation letter, stating that no member of the board is also an employee of the district at the same time.
2. Compare names of governing board members to payroll or personnel records.

F. PERSONNEL POLICY:

Compliance Requirement:

Section 17B-1-801 through 804 of the *Utah Code* requires districts with any full or part-time employees to have a personnel system which incorporates policies for the following: recruiting, advancing, compensating, training, fair treatment, and provision of information about political rights and appeals procedures. The system should be updated annually. This requirement does not apply to districts with annual revenues less than \$50,000.

Suggested Audit Procedures:

If the district has any full-time or part-time employees, determine that the district has an updated personnel policy.

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Special Service and Local Districts

G. FUND BALANCE LIMITATIONS:

Compliance Requirement:

Districts are permitted to accumulate earnings or fund balances, as appropriate, in any fund. With respect to the general fund only, any accumulated fund balance is restricted to the following: The greater of:

1. 100% of the current year's property tax; or
2. 25% of the total general fund's revenues, if the annual general fund budget is greater than \$100,000 or 50% of the total general fund's revenues, if the annual general fund budget is equal to or less than \$100,000.

Suggested Audit Procedure:

Make a calculation, based upon the above outlined restrictions, to determine if the entity's general fund balance is within legal limits.

H. LIABILITY INSURANCE:

Compliance Requirement:

Section 17B-1-113 of the *Utah Code* requires each special district with an annual operating budget of at least \$50,000 to obtain liability insurance as considered appropriate by the district's board.

Suggested Audit Procedure:

Determine if the district governing board has considered its need for liability insurance. Determine if the district has obtained the amount of liability insurance deemed appropriate by the governing body.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-10
Page: 1 of 3
Subject: General Compliance Other General Compliance Issues

This section includes general compliance issues which are immaterial or would not result in the auditor qualifying his opinion. However, the entity is expected to comply with these provisions and the auditor is expected to test for compliance. Instances of noncompliance should be reported in the management letter.

A. RECORDS RETENTION:

Compliance Requirement:

Governmental entities are required to: 1) establish and maintain a records management program; 2) make appointments of records officers to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records; 3) make and maintain adequate and proper documentation of the organization; 4) submit to the state archivist proposed schedules of records for final approval by the records committee; 5) report to the state archives designated classification of all records series. (UCA 63-2-903)

Suggested Audit Procedure:

1. Determine if the entity is in compliance with the Government Records Access and Management Act or have an approved ordinance/policy with summary description that has been sent to the State Archives.
2. Review retentions and determine if the entity is in compliance with General Records Retention Schedules or specific schedules they have developed. (General Records Retention Schedules may be obtained from the Utah State Archives and Records Services, (801) 531-3848.)

B. UNCLAIMED PROPERTY:

Unclaimed property is tangible or intangible property for which an owner cannot be located. Intangible property includes such items as money, drafts, deposits in a financial institution, interest, dividends, incomes, credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused tickets, unidentified remittances, stocks, mutual funds, bonds, notes and other debt obligations, amounts distributable from plans providing pension, vacation, severance, retirement, death, profit sharing and like benefits, and amounts distributable from a mineral interest in land.

Compliance Requirement:

A government entity holding intangible property for more than one year after the property became payable or distributable must report and remit the property to the State Treasurer's Office, Division of Unclaimed Property, by May 1 for the calendar year ended December 31. See *Utah Code* 67-4a-210 and 301 (1995 Supp.). Report forms are available from the Division of Unclaimed Property by

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calling 320-5360 or faxing 533-4096. The address for the Division of Unclaimed Property is 341 South Main, Salt Lake City, UT 84111. If the entity had a “nil” report (no unclaimed property), no report is required to be filed.

Suggested Audit Procedure:

If required, determine if the entity has filed its annual report for the fiscal year under audit to the State Treasurer, Division of Unclaimed Property by contacting the Division of Unclaimed Property at the above phone number and/or address. Determine if the entity has any property it is holding for others which could be considered abandoned over one year, but which was not reported.

C. FUND BALANCES:

Compliance Requirement:

Appropriations in the final budgets may not be made for any fund in excess of the estimated expendable revenues for the budget year. In other words, deficits in any fund are illegal. (*Utah Code* 17-36-17(1); 10-6-117(1); 10-5-114; 17B-1-613.

Counties, municipalities, and other governmental units may accumulate fund balances in any fund. However, the fund balance amounts must be within the following limits:

Counties: The maximum in general fund may not exceed 50 percent of the general fund’s total revenues; except, that in counties with a taxable valuation of \$750,000,000 or more and a population of 100,000 or more, the maximum shall be limited to 20% of the total revenues of the general fund for the current fiscal year. *Utah Code* 17-36-16 further requires a minimum fund balance of 5% of the total general fund revenues to be maintained and not be budgeted.

Cities: *Utah Code* 10-6-116(4) indicates that only the “fund balance in excess of 5% of total revenues of the general fund may be utilized for budget purposes.” The remaining 5% must be maintained as a minimum fund balance. The maximum in the general fund may not exceed 18% of the total estimated revenue of the general fund. (10-6-116(2))

Towns: Some towns find themselves with a deficit fund balance in one or more of their funds. The State Auditor has taken the position that a deficit, created by expenditures being made in excess of those budgeted, is an illegally created debt in violation of the Utah Constitution, Section XIV(3). As such, the total illegally created deficit should be budgeted to be made up in the following fiscal year. Deficits arising from emergencies are not illegal and may be retired over 5 years. Maximum in the general funds may not exceed 75% of the total estimated revenue of the general fund. (10-5-113(2))

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Page: 3 of 3
Subject: General Compliance Other General Compliance Issues

School Districts: There is no limitation on school district fund balances except for amounts designated to meet unexpected and unspecified contingencies. Such “undistributed reserves” may not exceed 5% of the maintenance and operations budget. (53A-19-103(1))

Other governmental units: See GC-9 (Special Districts, No.6)

Suggested Audit Procedure:

Review the entity’s fund balance(s) to determine:

1. If any are in a deficit position.
2. If they are within the authorized limitations.

D. CHILDREN’S LEGAL DEFENSE FUND:

Compliance Requirement:

Counties are required by *Utah Code* 17-16-21(2)(c) and 63-63a-8(4) to collect a fee of \$10 for each marriage license for the Children’s Legal Defense Fund. This fee is to be remitted by the county clerk to the State Administrative Office of the Courts.

Suggested Audit Procedure:

1. Determine how many marriage licenses were issued by the county clerk for the year and multiply by \$10 to determine the total that should have been collected by the county for the Fund.
2. Determine if the amount that should have been collected (as determined in step 1.) was remitted to the State’s Administrative Office of the Courts.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-11
Page: 1 of 1
Subject: General Compliance Uniform Building Code Standards

Information Contact: Dan S. Jones, Bureau Manager - 530-6720
Construction Trades Bureau
Division of Occupational and Professional Licensing

Utah Code, Section 58-56 provides uniform building standards for the State of Utah. Pursuant to *Utah Code, Section 58-56-4(2)*, the State has adopted the *International Building Code*, the *International Plumbing Code*, the *International Mechanical Code*, the *National Electrical Code*, the *International Energy Conservation Code*, the *International Residential Code*, the *International Fuel Gas Code*, and the *Federal Manufactured Housing Construction and Safety Standards Act* as the building standards for the State of Utah. These codes mandate that local jurisdictions issue building permits and perform inspections for construction within their jurisdictions. A schedule of fees is to be established by those jurisdictions for the issuing of building permits.

Utah Code, Section 58-56-9 (4) mandates that each compliance agency shall charge a 1% surcharge on all building permits issued and shall remit 80% of the surcharge collected to the Division of Occupational and Professional Licensing to be deposited into the General Fund as a dedicated credit to be utilized by the division to provide inspectors with the necessary training, education, and testing in order to meet the minimum qualifications to become licensed as building inspectors. The 1% surcharge should be charged on all inspection fees. However, it is not required on plan check fees or on impact fees.

A. REPORTS:

Compliance Requirement:

Each county municipality is required to file a quarterly report on a form provided by the division indicating the total amount collected for building permits within their jurisdiction. The report further breaks down the computation to the .8%, which is to be paid to the division with the filing of the report. The report with the remittance is to be mailed to the Division of Occupational and Professional Licensing no later than 30 days following the end of each quarter.

Suggested Audit Procedure

1. Determine whether the quarterly reports were filed.
2. Use analytical procedures to determine whether the amounts submitted with the reports (80% of the surcharge) to the Division of Occupational and Professional Licensing were reasonable.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-12
Page: 1 of 1
Subject: General Compliance Statement of Taxes Charged, Collected, and Disbursed - Current and Prior Years (Counties Only)

Both the Tax Commission and the State's Uniform Accounting Manual require a Statement of Taxes Charged, Collected, and Disbursed - Current and Prior Years (also called the treasurer's settlement statement). The statement is used to disclose property tax activity within the county.

Compliance Requirement:

Every county is required to have this statement in its audit report for years ending December 31, 1993 and later. The independent auditor should also provide at least, "in relation to the financial statements taken as a whole" assurance on this statement.

Suggested Audit Procedures:

1. Determine if the statement agrees with the county's records and is materially correct.
2. Ensure that the statement is included in the supplemental section of the financial statements.
3. Ensure that "in relation to" assurance on this statement is provided in the independent auditor's report on the financial statements.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-13
Page: 1 of 1
Subject: General Compliance Assessing & Collecting Property Taxes (Counties Only)

This section includes compliance requirements for the accounting for funds raised by levies on property taxes which are to be used in each county's functions of assessing, collecting, and distributing property taxes. The *Utah Code* 59-2-906.1 through 906.4 discusses this area. Part 59-2-906.1(1)(c) states that, "The purpose of the levy established . . . is to promote the accurate valuation of property, the establishment and maintenance of uniform assessment levels within and among counties, and the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes." Part 906.4 states that, "Each county shall separately account for the use of any monies received or expended under a levy imposed under Section 59-2-906.1, 59-2-906.2, 59-2-906.3."

Compliance Requirement:

Every county is required to separately account for assessing and collecting ("A&C") funds, whether received from the State's Property Tax Valuation Agency Fund, or from its own levy. Further, each county is required to spend such funds only on functions related to the valuation of property, the establishment and maintenance of uniform assessment levels; and the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes.

Direct charges to this function will originate in certain county departments which deal with A&C, i.e., assessor, treasurer, auditor. Since those departments usually perform a variety of duties, only a supportable allocation of their costs should be made to the A&C function. Related indirect costs; i.e., building maintenance, utility costs, and personnel costs, may also be allocated to this function. Such costs will need to be allocated twice: first, to the department based on a reasonable and supportable allocation method, i.e., square footage, CPU time, personnel count; and, second, through the department's allocation to the A&C function.

Suggested Audit Procedures:

1. Examine the county's separate accounts for the A&C function and document that the county has properly accounted for A&C revenues separately, both those received from the state and those received from its own levy.
2. Examine the county's costs charged to A&C. Document that the costs, both direct and indirect, were related to the A&C function and were allocated using reasonable allocation percentages.
3. Document that any A&C revenues which exceeded costs charged in the year under audit were carried over and reserved for the A&C function for the following year.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-14
Page: 1 of 3
Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

The *Utah Code* 59-12-301 allows a county to impose a transient room tax not to exceed 3 percent. The maximum rate increases to 4.25% on October 1, 2006.

Utah Code 17-31-5.5 provides that the Legislative body of each county imposing the transient room tax and/ or tourism, recreation, culture, and convention facilities tax shall annually engage an independent auditor to perform an audit to verify that transient room tax funds and tourism, recreation, culture, and convention facilities tax are used only as authorized by this chapter and to report the findings of the audit to the county legislative body.

This is accomplished by reporting the breakdown of expenditures as required by *UC* 17-31-5.5(3). (See compliance requirement below for the specific breakdown of expenditures.)

Utah Code 17-31-2 provides that:

1. In any county up to 100 percent of the tax may be used to establish, finance, and promote recreation, tourism, film production and conventions.
2. A county may not expend more than 1/3 of the revenues generated by the transient room tax for any combination of the following purposes:
 - a. acquiring, leasing, constructing, furnishing, maintaining, or operating convention meeting rooms, exhibit halls, visitor information centers, museums, sports and recreation facilities (including practice fields, stadiums, and arenas), and related facilities; and acquiring land, leasing land, or making payments for construction or infrastructure improvements;
 - b. as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, or sixth class, to pay for solid waste disposal operations, emergency medical services, search and rescue activities, and law enforcement activities; or
 - c. making the annual payment of principle, interest, premiums, and necessary reserves for bonds related to these activities.
3. If, on or after October 1, 2006, a county legislative body imposes a tax or increases the rate of the tax to a rate that exceeds 3%, the county legislative body may expend revenues generated by that portion of the rate that exceeds 3% for any purposes described in 1 and 2 above, without any of the restrictions in 2 above.
4. The county may issue bonds for the allowable purposes. However, the annual payments on the bonds, including interest, premiums, and necessary reserves, may only be made in the proportions as outline above.
5. The county may create a reserve fund so that any funds collected by the tax but not expended during any fiscal year shall not revert to the general fund, but shall be retained in a special fund to be used for the purposes outline above. See *Utah Code* 17-31-2(1), (2), and (3) for details.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-14
Page: 2 of 3
Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

Compliance Requirement:

Any county imposing these taxes shall annually engage an independent auditor to do an audit to verify that the transient room tax and tourism, recreation, culture, and convention facilities tax were used only as authorized by law and to report the findings of the audit to the county legislative body. This should be done as part of the regular annual audit.

For calendar years beginning CY 2006, state law requires additional financial reporting of the use (expenditure) of the transient room taxes and the tourism, recreation, culture, and convention facilities taxes. This breakdown of expenditures should be included as an attached schedule to the Independent Auditor's Report on Legal Compliance With Applicable Utah State Laws and Regulations. The auditor should issue an in-relation-to opinion on this schedule. (An example format of this schedule can be found below.)

Utah Code Section 17-31-5.5(3) requires a breakdown of expenditures into the following categories:

Transient Room Tax

Establishing and promoting:

- Recreation
- Tourism
- Film production
- Conventions

Acquiring, leasing, constructing, furnishing, or operating:

- Convention meeting rooms
- Exhibit halls
- Visitor information centers
- Museums
- Related facilities

Acquiring or leasing land required for or related to:

- Convention meeting rooms
- Exhibit halls
- Visitor information centers
- Museums
- Related facilities

Mitigation costs

Payment of principal, interest, premiums, and reserves on bonds

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-14
Page: 3 of 3
Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

Tourism, Recreation, Culture, and Convention Facilities Taxes

Financing tourism promotion
Development, operation, and maintenance of:
 Tourist facilities
 Recreation facilities
 Cultural facilities
 Pledges as security for evidence of indebtedness

Reserves and Pledges

Reserves on bonds related to TRT funds
Pledges as security for evidences of indebtedness related to TRCC

Suggested Audit Procedures:

1. Determine the amount of transient room tax and tourism, recreation, culture, and convention facilities tax collected by the county during the fiscal year.
2. Determine expenditures made from amounts collected.
3. Test a representative sample of those expenditures to determine that they were made only for purposes and in the proportions authorized in *Utah Code* 17-31-2(1),(2), and (3).
4. If the collections exceeded the expenditures during the fiscal year, determine that the remainder was reserved and retained in a special fund and did not revert to the general fund.
5. Determine that the breakdown of expenditures into categories on the schedule attached to the Independent Auditor's Report On Legal Compliance With Applicable Utah State Laws is proper and accurate.
6. Report any findings in the State Legal Compliance report and to the county legislative body.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 1 of 6
Subject: Impact Fees and Other Development Fees

During the 2006 General Session, the Utah Legislature modified *UC 10-5-129* and *UC 17A-1-4* requiring governments who collect impact fees to provide additional reporting in their financial statements. (See section A below for requirements.)

This section addresses compliance requirements related to the *Impact Fees Act* which is codified in the *Utah Code* as *Title 11, Chapter 36*. The *Impact Fees Act* was intended to impose limitations on the use of impact fees and standardize the procedures for establishing impact fees while still leaving a method for local governments to generate revenues for expanding capacity caused by development and growth. Existing impact fees for public facilities not authorized by *Utah Code Section 11-36-102(12)* should have been repealed by July 1, 1995. Existing impact fees for public facilities authorized in *11-36-102 (12)* need not comply with the requirements of the *Impact Fees Act* until July 1, 1997. The *Impact Fees Act* applies to all local political subdivisions with the exception of school districts. Impact fee activities for school districts are governed by *Utah Code 53A-20-100.5*. Currently there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee.

Amendments to the Impact Fee Act (2002 Session) now requires private water companies providing culinary water as a condition of development to follow the same requirements as a local political subdivision (listed below in Section B.1.f) before implementing impact fee changes.

Section B below is applicable only to those local political subdivisions which impose impact fees. Section C below is applicable to all local political subdivisions.

A. IMPACT FEE REPORTING REQUIREMENTS:

1. Within 180 days after the close of year-end, each county, municipality, and special district shall present to the governing body an annual financial report. Each annual report shall identify impact fee funds by the year in which they were received, the project from which the funds were collected, the capital projects for which the funds are budgeted, and the projected schedule for expenditure.

The required information shall be presented as a schedule in the "supplementary information" section of the government's financial statements. This schedule requires no auditing or in-relation-to opinion.

Suggested Audit Procedures:

Determine that a schedule identifying impact fee funds by year in which they were received, the project from which the funds were collected, the capital projects for which the funds are budgeted, and the projected schedule for expenditure has been properly included in the "supplementary information" section of the government's financial statements.

B. IMPACT FEE COMPLIANCE REQUIREMENTS:

1. Authorized Public Facilities

Impact fees may only be imposed for the development of authorized "public facilities" as defined by the *Impact Fees Act*. "Public facilities" means only the following capital facilities that have a life

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 2 of 6
Subject: Impact Fees and Other Development Fees

expectancy of ten or more years and are owned or operated by or on behalf of a local political subdivision:

- a. water rights and water supply, treatment, and distribution facilities;
- b. wastewater collection and treatment facilities;
- c. storm water, drainage, and flood control facilities;
- d. municipal power facilities;
- e. roadway facilities;
- f. parks, recreation facilities, open space, and trails; and
- g. public safety facilities (excluding jails, prisons, or other places of involuntary incarceration.)

(*Utah Code* 11-36-102 (12))

Local political subdivisions may also impose impact fees for environmental mitigation in accordance with *Utah Code* 11-36-202(5).

Suggested Audit Procedure:

Determine whether impact fees are only being charged for authorized public facilities.

2. Capital Facilities Plan

- a. Before imposing an impact fee, the local political subdivision shall prepare a capital facilities plan. The plan shall identify:

- 1) demands placed upon existing public facilities by new development activity; and
- 2) the proposed means by which the local political subdivision will meet those demands.

(*Utah Code Section* 11-36-201 (2)(a-c))

- b. Before adopting the plan, the local political subdivision shall comply with the applicable notice and hearing requirements and shall make a copy of the plan available to the public at least 14 days before the date of the public hearing. (*Utah Code Section* 11-36-201 (2)(d))

As of July 1, 2000, any new capital facilities plan, prepared independent of a general capital facilities plan, must also include a summary designed to be understood by a lay person. The copy of the plan and the summary must be placed in each public library within the local political subdivision at least 14 days before the date of the public hearing.

Suggested Audit Procedure:

Determine whether the entity has a capital facilities plan. Review the plan to determine whether it contains the required information. Also, determine whether the entity complied with the public notice and hearing requirements.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 3 of 6
Subject: Impact Fees and Other Development Fees

3. Impact Fee Written Analysis

Each local political subdivision imposing impact fees shall prepare a written analysis of each impact fee that:

- a. identifies the impact on system improvements required by the development activity;
- b. demonstrates how those impacts on system improvements are reasonably related to the development activity;
- c. estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and
- d. based upon the factors and requirements of *Utah Code Section 11-36*, identifies how the impact fee was calculated.

(*Utah Code Section 11-36-201 (5)(a)*)

As of July 1, 2000, any new written analysis made available to the public must include a summary designed to be understood by a lay person. The copy of the written analysis and the summary must be placed in each public library within the local political subdivision at least 14 days before the date of the public hearing.

Suggested Audit Procedure:

Determine whether the entity has a written analysis of the impact fee. Review the written analysis to determine whether it contains the required information. Also, determine whether the entity complied with the public notice requirements.

4. Impact Fee Enactment

- a. Each local political subdivision wishing to impose impact fees shall pass an impact fee enactment. (*Utah Code Section 11-36-202 (1)(a)*)
- b. The impact fee imposed by that enactment may not exceed the highest fee justified by the impact fee analysis performed pursuant to *Section 11-36-201*. (*Utah Code Section 11-36-202 (1)(b)*)
- c. In calculating the impact fee, each local political subdivision may include:
 - 1) the construction contract price;
 - 2) the cost of acquiring land, improvements, materials, and fixtures;
 - 3) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
 - 4) debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements. (*Utah Code Section 11-36-202*)
- d. The local political subdivision shall comply with the applicable notice and hearing requirements and shall make a copy of the impact fee enactment available to the public at least 14 days before the date of the public hearing. (*Utah Code Section 11-36-202 (1)(d)*)

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
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Subject: Impact Fees and Other Development Fees

- e. The local political subdivision shall ensure that the impact fee enactment contains:
 - 1) a provision establishing one or more service areas within which it shall calculate and impose impact fees for various land use categories;
 - 2) either:
 - a) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or
 - b) the formula that the local political subdivision will use to calculate each impact fee;
 - 3) a provision authorizing the local political subdivision to adjust the standard impact fee at the time the fee is charged to:
 - a) respond to unusual circumstances in specific cases; and
 - b) ensure that the impact fees are imposed fairly; and
 - 4) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the fee based upon studies and data submitted by the developer.
(*Utah Code Section 11-36-202(2)*)

Suggested Audit Procedure:

Determine whether the entity has an impact fee enactment or ordinance. Review the enactment to determine whether it contains the required information. Ensure the impact fee does not exceed the highest fee justified by the written analysis. Also, determine whether the entity complied with the public notice and hearing requirements.

5. Accounting

Each local political subdivision collecting impact fees shall:

- a. establish separate interest bearing ledger accounts for each type of public facility for which an impact fee is collected;
- b. deposit impact fee receipts in the appropriate ledger account;
- c. retain the interest earned on each fund or account in the fund or account; and
- d. at the end of each fiscal year, prepare a report on each fund or account showing:
 - 1) the source and amount of all monies collected, earned, and received by the fund or account; and
 - 2) each expenditure from the fund or account.

This report is a public document and should be available for public inspection during regular office hours. (*Utah Code 11-36-301*)

Suggested Audit Procedure:

Determine whether the entity is appropriately accounting for and reporting on each of the impact fees. Also, determine whether the entity is retaining interest earned by the impact fees in the proper accounts.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 5 of 6
Subject: Impact Fees and Other Development Fees

6. Allowable Expenditures

A local political subdivision may expend impact fees only for:

- a. system improvements for public facilities identified in the capital facilities plan; and
- b. system improvements for the specific public facility type for which the fee was collected. (*Utah Code 11-36-302(1)*)

Suggested Audit Procedure:

Determine whether impact fee proceeds were used only for public facilities identified in the capital facilities plan and for the specific public facility type for which the fee was collected.

7. Period of Availability

- a. Except as provided in (b), a local political subdivision shall expend or encumber the impact fees for a permissible use within six years of their receipt.
- b. A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
 - 1) an extraordinary and compelling reason why the fees should be held longer than six years; and
 - 2) an absolute date by which the fees will be expended.
(*Utah Code 11-36-302(2)*)

Suggested Audit Procedure:

Determine whether the entity has a system of controls to ensure impact fee proceeds are expended or encumbered within six years. Determine whether the impact fee proceeds were used in a timely manner and that reasons for holding fees longer than six years were appropriate and documented.

8. Refunds

A local political subdivision shall refund any impact fees paid by a developer, plus interest earned, when:

- a. the developer does not proceed with the development activity and has filed a written request for a refund;
- b. the fees have not been spent or encumbered; and
- c. no impact has resulted.
(*Utah Code 11-36-303*)

Suggested Audit Procedure:

Determine whether the entity has appropriately refunded any unused impact fees.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 6 of 6
Subject: Impact Fees and Other Development Fees

C. OTHER DEVELOPMENT FEES COMPLIANCE REQUIREMENTS

1. Hook Up Fees

Hook up fees charged to make connections to utility services including gas, water, sewer, power, or other municipal, county, or independent special service district utility services must not exceed the approximate average costs of the services provided to make the connection. (11-36-102(6))

Suggested Audit Procedure:

Review the entity's procedures for calculating hook up fee rates to determine whether hook up fees exceed the approximate average costs of the services provided.

2. Other Development Fees

A local political subdivision may not impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided. (11-36-201(1)(b)) The *Impact Fee Act* does not require the repeal or elimination of any impact fee in effect on the effective date of this act, that was pledged as a source of revenues to pay bonded indebtedness incurred before the effective date of this act. (11-36-201(7))

Suggested Audit Procedure:

Review the fees charged by the entity as a condition of development approval and determine whether all such fees either approximate average costs of the services provided or comply with the impact fee requirements noted in section A above.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-16
Page: 1 of 2
Subject: General Compliance Asset Forfeiture

Compliance Requirement:

30 days after seizure, the entity must prepare a detail inventory of all property seized and transfer the seized property to a designated official within the agency, who shall be responsible for holding and maintaining seized property pending a court order of release or final determination of forfeiture and disposition of property. (*Utah Code 24-1-4*)

Suggested Audit Procedure:

Determine if the entity has a system of controls in place to ensure that seized assets are properly inventoried and transferred to the proper official within the agency.

Compliance Requirement:

Proceeds from the forfeited property and forfeited monies through state forfeitures shall be deposited (with the State) in a restricted account in the general fund called the Criminal Forfeiture Restricted Account. The amount deposited shall be reduced by the seizing agency's direct costs and expenses, as approved by the court of obtaining and maintaining the property pending forfeitures; and pay the legal costs to the prosecuting agency for the prosecution of the forfeiture proceeding. (*Utah Code 24-1-17*)

Suggested Audit Procedure:

Determine if the entity properly deposited forfeited property and forfeited monies with the State in the Criminal Forfeiture Restricted Account. Also determine if the amount held by the entity in order to cover costs associated with obtaining and maintaining the forfeited assets is reasonable and not excessive.

Relating to forfeited monies granted back to the entity as part of the Crime Reduction Assistance Program.

Compliance Requirement:

For each fiscal year, any state, local, or multi-jurisdictional agency or political subdivision that received a program award shall prepare, and file with the Utah Commission on Criminal and Juvenile Justice and the State Auditor, a report in a form specified by the Utah Commission on Criminal and Juvenile Justice. The report shall include the following regarding each award: the agency's name; the amount of the award; the date of the award; how the award has been used; and a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that: the agency or political subdivision has complied with all inventory, policy, and reporting requirements of this chapter; all program awards were used for crime reduction or law enforcement purposes specified in the application; and only upon approval or appropriation by the agency's or political subdivision's legislative body. (*Utah Code 24-1-19*)

Suggested Audit Procedure:

Determine if the entity has accurately completed the required report and has properly submitted the report with the Utah Commission on Criminal and Juvenile Justice and the Utah State Auditor.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-16
Page: 2 of 2
Subject: General Compliance Asset Forfeiture

Compliance Requirement:

Follow-up on any other audits/ reviews performed by any government entity relating to asset forfeitures at the agency.

Suggested Audit Procedure:

Determine if any other audits/ reviews have been performed by any government entity relating to asset forfeitures at the agency. Review the issued report and determine if any findings have been implemented.

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LEGAL COMPLIANCE AUDIT GUIDE

Department of Agriculture & Food (UDAF):

Utah Association of Conservation Districts (UACD)

UDAF-1

Soil Conservation Districts (SCD)

UDAF-2

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: UDAF-1
Page: 1 of 2
Subject: Utah Association of Conservation Districts (UACD)
(UDAF, Conservation & Resource Management Division)

TYPES OF AGREEMENTS:

Contracts

TYPES OF RECIPIENTS:

The direct recipients are Utah's Soil Conservation Districts (SCD) and the land managers served by the SCD, including those that borrow money from the State's Agricultural Resource Development Loan (ARDL) Program.

SOURCE OF AUTHORIZATION AND REGULATIONS:

Utah Code, Section 4-18 and 17A-3-800 through 807

INFORMATION CONTACT:

Jake Jacobson, 538-7171

A. PROGRAM OBJECTIVES:

The objectives of this program are to provide administrative and technical assistance to the State's soil conservation districts by hiring and managing staff support to help promote and implement the following programs: 1) Agriculture Resource Development Loan (ARDL); 2) Non-Point Source (NPS) Pollution Control; 3) Utah Partners for Conservation & Development and 4) training of Soil Conservation Districts. The general objectives of UACD as a non-profit corporation are listed in their by-laws.

B. PROGRAM PROCEDURES:

UACD submits budget requests for specific project activities prior to the beginning of a fiscal year. The standard State contracting process begins with approval of proposals by the Utah Soil Conservation Commission (SCC) and UDAF Administration. The contract includes workplans for each project as well as report and payment schedules.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

A description of the services desired are given in the contract workplans.

2. ELIGIBILITY

The auditor is not expected to perform tests for eligibility.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: UDAF-1
Page: 2 of 2
Subject: Utah Association of Conservation Districts (UACD)
(UDAF, Conservation & Resource Management Division)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

There is no matching required. Specific accomplishments are given in the contract workplans.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The Association must provide a detailed budget on funds contracted by the Commission by June 1st preceding the fiscal year they are to be used and have an audit performed by a certified public accountant in accordance with generally accepted auditing standards when a fiscal year's total contracted funds from the Commission exceeds \$150,000, or if funding is between \$50,000 and \$150,000 obtain a review or compilation report from a certified public accountant on such funds, either of which shall be budgeted and paid for from contract funds by the Association.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: UDAF-2
Page: 1 of 2
Subject: Soil Conservation Districts (SCD)
(UDAF, Conservation & Resource Management Division)

TYPE OF AGREEMENTS: Contract and direct payments based on expenditure plan and availability of funds
TYPE OF RECIPIENTS: Soil Conservation Districts (SCD)
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 4-2, 4-18, and 17A-3-800 through 807
INFORMATION CONTACT: Jake Jacobson, Program Coordinator, UDAF, Conservation & Resource Management Division, 538-7171

A. PROGRAM OBJECTIVES:

The objective of this program is to help protect and develop Utah's agricultural resources. Direct State funding to help accomplish this is done through two accounts as follows: 1) District Operation Account to help with general expenses of the SCD, and 2) Technical Assistance Project Grant Program to carry out special projects to achieve SCD or State conservation objectives. The objectives of the SCD's are found in the SCD Act, *Utah Code* 17A-3-800 through 807, and their individual fiscal year and long range plans.

B. PROGRAM PROCEDURES:

Program policies and procedures for the accounts listed above have been established by the Soil Conservation Commission (SCC). These are provided to each SCD in the SCD Handbook. Any program changes or handbook updates are provided to the SCD's on a regular basis. SCD's are considered to be a type of dependent special district local governmental unit. They do not have taxing authority. UDAF staff reminds the SCD officials of their general uniform accounting responsibilities as special districts. Most of the uniform accounting requirements are referenced in the SCD Handbook.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The two accounts described above have use guidelines associated with them. A current copy of these can be obtained from the SCD Program Coordinator at UDAF or from an individual SCD.

2. ELIGIBILITY

The auditor is not expected to make tests for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: UDAF-2
Page: 2 of 2
Subject: Soil Conservation Districts (SCD)
(UDAF, Conservation & Resource Management Division)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

There are no matching, level of effort or earmarking requirements.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The following reports must be submitted by each SCD each year to the Utah Soil Conservation Commission:

- a. Copies of originals or an abridgement of minutes of all meetings held during the reporting year that contain at least the meeting date, place, attendance, and a brief summary of the business transacted.
- b. A written summary of the district's activities and accomplishments of the reporting period made toward achieving yearly or long-range goals.
- c. A financial report for the past fiscal year which includes a Statement of Cash Receipts and Disbursements and a Summary of Assets and Liabilities.
- d. A program plan of work for the next fiscal year.
- e. A program budget for the upcoming fiscal year. (The form and worksheet is provided by the Commission.)
- f. A Two Year Future Funding Needs Report (The form is provided by the Commission.)
- g. A supervisor Expense Reimbursement Account Report - Funds for this account are appropriated by the State Legislature separately from other SCD funds. They can only be used for expenses of officially elected or appointed SCD supervisors and for expenses to maintain the account. Thus, they have to be managed and reported separately. (The forms provided by the Commission are to be sent in March of each year. (They are due June 1st.)

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

State Office of Education (SOE):

Minimum School Program	SOE-1
School Building Program	SOE-2
Driver Education	SOE-3

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-1
Page: 1 of 8
Subject: Minimum School Program
SOE, Division of Agency Services, School Finance & Statistics Section

TYPES OF AGREEMENTS: Allocated per *Utah Code* Formulas

TYPES OF RECIPIENTS: School Districts, Charter Schools, Regional Services Centers, etc.

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Title 53A

INFORMATION CONTACT: Cathy Dudley 538-7667 – Finance
Von Hortin 538-7670 – Audit

A. PROGRAM OBJECTIVES

The objective of the Minimum School Program is to provide reasonably equal educational opportunities for all children in the State of Utah regardless of where they live or their economic status. This Legal Compliance Audit Guide is based on the FY06-07 school year.

B. PROGRAM PROCEDURES

Minimum School Program funds are allocated to school districts and charter schools by the School Finance and Statistics Section of the SOE based on formulas provided by the Minimum School Finance Act and Board rule. The largest share of funds is based on actual prior-year average daily membership (ADM) plus an estimated growth factor. Some allocations are based on fixed or competitive grant application.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF FUNDS AVAILABLE

Compliance Requirements:

The Minimum School Program provides funding for most educational activities. The descriptions for these programs can be found at the following website:

<http://www.schools.utah.gov/finance/msp/Default.htm>

There are six major categories of school programs:

- a. **Regular Basic School Programs** - The funds received for the following programs are basically unrestricted and can be used for any educational purposes.

Kindergarten - To support educational services for students in kindergarten.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-1
Page: 2 of 8
Subject: Minimum School Program
SOE, Division of Agency Services, School Finance & Statistics Section

Grades 1-12 - To support educational services for students in grades 1 through 12.
Example: Supplies, Personnel, Texts.

Necessarily Existent Small Schools - To assist small schools that are located in remote areas and are therefore expensive to operate.

Professional Staff- To support LEAs in recruiting and retaining highly educated and experienced educators for instructional, administrative and other types of professional employment in public schools. Example: Signing bonus, retention bonus, and advertising.

Administrative Costs - To support districts -- especially districts with small enrollments -- in maintaining administrative resources. Example: Audits, reports, postage, technology.

- b. **Restricted Basic School Programs** - The funds received for the following programs must be expended specifically for the program(s) designated.

Special Education – Regular Program – Add –on -- To provide educational services for students with disabilities as required by federal law. Example: Special Ed personnel, texts, supplies.

Special Education – Self Contained WPUs -- To compensate for the higher cost of providing more extensive educational services to students who are in a self contained setting (enrolled in special education for 180 minutes or more each day). Unlike resource students, self contained students do not generate a “regular” WPU.

Special Education – Preschool -- To provide preschool educational services for children with disabilities from ages 3 through 5 as required by federal law.

Extended Year for Severely Disabled -- To provide a longer school year for those students with disabilities whose regression over school breaks is so severe that an inordinate amount of time is necessary to recoup previous learning.

Special Education – State Programs -- To support districts in serving special education students whose extensive needs cost the district more than \$15,000 per student.

Career and Technical Education – Add-on -- To compensate for the higher cost of state approved CTE courses provided either directly by districts or through external providers on contract to districts. Example: Supplies, texts, personnel.

Career and Technical Education – Set Aside -- To continue high priority CTE programs or to purchase equipment needed to initiate new CTE programs.

The local maintenance of effort amounts need to be specified either in the Local section of the Annual Program Report (APR) under property tax or under the state section in the unrestricted row. Program specific revenue should be listed under restricted in the state section of the APR.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-1
Page: 3 of 8
Subject: Minimum School Program
SOE, Division of Agency Services, School Finance & Statistics Section

Class Size Reduction -- To reduce the size of classes or maintain smaller classes in grades Kindergarten - 8. Example: Personnel.

School districts and charter schools documents need to show specific names and benefits for salaries and benefits charged to this program.

- c. **Related to Basic Programs** - The funds received for the following programs are exclusively for retirement, social society, transportation, and other specified programs.

Social Security and Retirement -- To compensate districts for Social Security and retirement costs associated with the Basic Program, that is, with all programs that are allocated according to WPU.

The amount of reimbursement should not exceed the amount of expenditures recognized for the time period.

Pupil Transportation To & From School -- To support the transportation of students to and from school, including the training of district transportation personnel.

Transportation levy -- To support school districts in purchasing new buses, providing special busing for hazardous walking areas and funding transportation costs associated with field and activity trips.

The amount of To & From School Transportation funding should effectively be separate from the Transportation levy on the APR. School Districts need to demonstrate the distribution between the "To & From" and the transportation levy programs.

Quality Teaching Block Grant -- To implement comprehensive long term professional development plans in both schools and districts; the plans must be approved by the local school board, and each individual school plan must be consistent with the district plan. Example: Professional Development, tuition reimbursement.

Local Discretionary Block Grant -- To meet local needs at the discretion of the LEA. Example: Maintenance and operation costs, capital outlay, debt services.

Interventions for Student Success Block Grant -- To improve the academic performance of students who do not meet performance standards as determined by U-PASS test results; interventions must be consistent with a district plan approved by the local school board, and the plan must specify intended results. Example: Remedial class, supplies, texts, personnel.

- d. **Special Populations** - The funds received for these programs are distributed based on approved RFPs or formulas and must be spent within the respective special populations.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-1
Page: 4 of 8
Subject: Minimum School Program
SOE, Division of Agency Services, School Finance & Statistics Section

- e. **Other Programs** - The funds received for these programs are basically unrestricted and can be used for any educational purpose related to electronic high school, the school land trust program, etc.
- f. **Leeway Programs** - The funds received for these programs are based upon specific leeway formulas. Voted leeway proceeds are to be expended for M & O (general fund) purposes only. Board leeway proceeds are to be expended for class size reduction or other duly authorized purposes as set forth by statute.

Suggested Audit Procedure:

Trace the flow of funding for each individual program to the final disposition.

- a. Trace the entity's reconciliation of program activities from reports prepared by USOE (project allotment memorandums, recipient reports, and district summary reports) to the entity's records and reports (program revenue and expenditure reports, financial statements, Annual Program Report, and Annual Financial Report).
- b. Verify that program balances agree with prior-year and current-year ending balances on reports prepared by the entity. (For each program, the entity's reconciliation should include beginning unspent program balance, receipts, expenditures, adjustments, and ending unspent program balance.)

Verify that the funds were expended appropriately.

- a. Identify the types and activities and allowable costs for each program.
- b. Perform procedures and tests to verify that activities were allowable and transactions were properly classified and accumulated into the activity totals. Consider transfers and adjustments when performing these procedures and tests.
- c. Perform procedures and tests to determine that direct charges to programs were for allowable costs. (The criteria affecting the allowability of costs include whether the costs are reasonable and necessary; allocated in accordance with relative benefits received; are given consistent treatment; conform to any limitations established by State laws or rules; are supported with appropriate documentation; represent charges for actual costs, not budgeted or projected amounts; are net of all applicable credits; and are calculated in conformity with generally accepted accounting principles.)
- d. Perform procedures and tests to determine that indirect cost rates were applied in accordance with approved rate limitations.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-1
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Subject: Minimum School Program
SOE, Division of Agency Services, School Finance & Statistics Section

2. ELIGIBILITY

Compliance Requirement:

Minimum School Program funds are distributed to school districts, charter schools, schools for the deaf and blind, colleges, and state universities. Eligibility and reimbursement for specific programs are based on weighted pupil units, average daily membership, various formulas, and basic rate property tax proceeds.

Suggested Audit Procedure:

The audit procedures for the (SOE) Financial and Program Reports are addressed in part 4 below. The Fall Enrollment (October 15th Data Clearinghouse File) and Student Membership (July 15th Data Clearinghouse File) Reports are tested through agreed-upon procedures as addressed in Appendix C-5. Adult Education procedures are tested through agreed-upon procedures as addressed in Appendix C-6.

3. LOCALLY GENERATED TAXES & FEES (Fiscal Year 2006-07)

Compliance Requirement:

Each school district is required to access a local property tax levy of .001515 to be used for operation and maintenance of schools. A complete listing of required and optional tax levies is as follows:

<u>Tax</u>	<u>Ceiling¹</u>	<u>Utah Code Citation</u>
Basic Levy	.001515 ²	53A-17a-135, 59-2-902, 903, 905, 906 & 924
Voted/Board Leeway	.002000 ³	53A-17a-133 & 134; 59-2-904
Reading Achievement Board Levy	.000121 ⁷	53A-17a-151
Capital Outlay	.002400 ⁴	53A-16-107; 11-14-19
10% of Basic	Formula	53A-17a-145
Debt	Voter approval	11-14-19; 53A-17a-145
Voted Capital	.002000	53A-16-110
Tort Liability	.000100	63-30-27
Transportation	.000300 ⁵	53A-17a-127
Recreation	None	11-2-7
P.L. 81-874 (Impact Aid Title VII)	.000800	53A-17a-143
Judgment Recovery	Varies by Judgment ⁶	53A-16-111; 59-2-102, 918.5, 924, 1328 & 1330

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¹ A taxing entity may impose a tax rate in excess of the maximum levy permitted by law if the rate generates revenues that are less than the revenues that would be generated under the certified tax rate [59-2-914(3)(a)].

² 53A-17a-135(1)(a), (b) and (c) provide that the State Tax Commission will certify and adjust the basic rate on or before June 22 to generate \$232,483,090 for Fiscal Year 2006-07.

³ The amount of state aid guarantee money to which a school district would be otherwise entitled under the Voted/Board Leeway programs may not be reduced as a consequence of changes in the certified tax rate pursuant to changes in property valuation. This applies for a period of two years following any such change in the certified tax rate [53A-17a-133(3)(d)(i) and (ii)].

⁴ School districts levying less than 0.002400 for capital outlay and debt service shall receive proportional funding under the Capital Outlay Foundation program based on the percentage of the 0.002400 tax rate levied by the district. Hold harmless provisions for up to two years have been enacted by Administrative Rule R277-451. School districts are required, regardless of any limitations which may otherwise exist on the amount of taxes which the school district may levy, to provide for the levy and collection annually of ad valorem taxes without limitation as to rate or amount on all taxable property in the school district fully sufficient to fund general obligation indebtedness [11-14-19].

⁵ House Bill 179 of the 1998 General Session increased the maximum tax rate a school board may levy from 0.000200 to 0.000300 for transporting participating students to interscholastic activities, night activities, and educational field trips approved by the board, for the replacement of school buses [53A-17a-127(6)], transportation of ineligible students to and from school, and hazardous bus routes [R277-600-10]. The 2003 Legislature funded \$500,000 as the state's contribution to the state guarantee established in 53A-17a-127(7). The guarantee is not to exceed 85% of the state average cost per mile, if the school board levies a tax of at least 0.000200. The amount of state guarantee money to which a district would otherwise be entitled may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate. This hold-harmless for the state guarantee applies for two years.

⁶ Senate Bill 84 of the 2000 General Session clarified eligibility requirements for the imposition of a Judgment Levy. An eligible judgment is a final order or judgment under 59-2-1328 or 59-2-1330 that became final and unappealable no more than 14 months prior to July 22nd of each year and for which the taxing entity's share of the judgment is greater than or equal to the lesser of \$1,000 or one percent of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year [59-2-102(10)]. Because each year stands on its own, judgment levies are not considered part of the total certified tax rate; the effective judgment levy certified tax rate is considered to be zero each year and taxing entities must go through the hearing and notice requirements of 59-2-918.5 each year. If a judgment levy is imposed, all refunds and interest ordered must be paid no later than December 31 of the year in which the judgment levy is imposed [59-2-1328 (3)]. Judgment levies need to be allocated to all property taxes for the year and should show in individual fund sections.

⁷ Senate Bill 230 of the 2004 General Session created the K-3 Reading Improvement Program to achieve the state's goal of having third graders reading at or above grade level. Each local school board may levy a tax rate of up to .000121 per dollar of taxable value for funding the school district's K-3 Reading Improvement Program created under 53A-17A-150. The K-3 Reading Improvement Program consists of program monies and is created to achieve the state's goal of having third graders reading at or above grade level. The levy authorized is in addition to any other levy or maximum rate, does not require voter approval, and may be modified or terminated by a majority vote of the board. A local school board shall establish its board-approved levy under this section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year. If after 36 months of program operation, a school district fails to meet goals stated in the district's plan for student reading proficiency as measured by gain scores, the school district shall terminate any levy imposed under Section 53A-17a-151.

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Suggested Audit Procedures:

Ensure that the school district levies the Basic Rate of .00515 by confirmation with the county auditor. Verify that all other levies are approved and certified by the State Tax Commission (Property Tax Division) and expended for the purpose(s) levied.

Verify fee in lieu and tax sales and redemptions are allocated to each tax levy.

4. REPORTING REQUIREMENTS

Compliance Requirements:

Each school district is required to prepare and submit the following reports: Student Membership Report, Data Clearinghouse File Update, Annual Financial Report, Annual Program Report, Adult Education procedures, and audited financial statements. These reports must be submitted to the State Office of Education in accordance with the following due dates:

Data Clearinghouse File Update as of Prior Year End	July 15	R277-484-3(D)(4)
Aggregate Membership Report	September 15	R277-419-3(D)
Annual Financial and Program Reports	October 1	53A-3-404
Data Clearinghouse File Update as of October 1	October 15	R 277-484-3(H)
Adult Education Procedures	September 15	
Audited Financial Statements- Schools Districts	November 30	53A-3-404A
Audited Financial Statements- Charter Schools	November 30	53A-1A-507(4a)
Enrollment and Transfer Student Documentation	November 1	R277-419-3(D)

Suggested Audit Procedures:

Ensure that the reports are filed in a timely manner. Perform testwork sufficient to ensure that the following requirements are satisfied.

- a. The Student Membership (July 15th Data Clearinghouse File) and the Fall Enrollment (October 15th Data Clearinghouse File) Reports must be tested through agreed-upon procedures between the school district or charter school, the independent auditor, and the State Office of Education. Additional guidance for the agreed-upon procedures can be found in Appendix C-5 of this audit guide.
- b. The (SOE) Annual Program Report should agree to the (SOE) Annual Financial Report.
- c. The (SOE) Annual Financial Report should agree to the audited financial statements. Differences caused by audit adjustments during October or November should be reported to the State Office of Education as soon as possible.

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- d. The school district's or charter school's annual financial audit must be performed in accordance with *Government Auditing Standards* and OMB Circular A-133.
- e. Interfund transfers must be in accordance with *Utah Code, Section 53A-19-105*.
- f. Undistributed reserve must be in accordance with *Utah Code, Section 53A-19-103*.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-2
Page: 1 of 4
Subject: School Building Program
SOE, Division of Agency Services, School Finance & Statistics Section

TYPES OF AGREEMENTS: Contracts
TYPES OF RECIPIENTS: School Districts
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 53A-21; R277-451*
INFORMATION CONTACT: Cathy Dudley - 538-7667

A. PROGRAM OBJECTIVES:

The objective of the School Building Program is to provide financial assistance to school districts for the purpose of capital outlay bonding, construction, and renovation (*Utah Code 53A-21-102(1)*).

B. PROGRAM PROCEDURES:

The SOE determines the eligibility of districts for participation and then distributes program funds in accordance with the statute and State Board of Education Rule.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF FUNDS AVAILABLE

School Building Programs

Compliance Requirements

The School Building Program assists school districts with capital outlay bonding, construction, and renovation in the following ways:

- a. Grants to school districts who qualify for the **Capital Outlay Foundation Program** and **Enrollment Growth Program** (*Utah Code 53A-21-102(1); 53A-21-103; 53A-21-103.5; 53A-21-105*).
- b. **Interest-bearing Loans** to school districts (*Utah Code 53A-21-102(2); 53A-21-104*).
- c. Supplemental appropriations.

School districts shall use the monies provided to them under the foundation and loan programs solely for school district capital outlay and debt service purposes (*Utah Code 53A-21-102(3)*). A Building Reserve Fund for school districts is authorized by *Utah Code 53A-23*.

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LEGAL COMPLIANCE AUDIT GUIDE

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Suggested Audit Procedure:

Ensure that the school district has expended funds in accordance with provisions of *Utah Code* 53A-21-102(3).

2. ELIGIBILITY

Capital Outlay Foundation Program (*Utah Code* 53A-21-102(1); 53A-21-103; R277-451):

Compliance Requirements

To qualify for Capital Outlay Foundation funds, the district must meet the following criteria:

- a. The local school board must levy a tax rate of .0024 per dollar of taxable value for capital outlay and debt service to receive full funding; school boards levying less than the .0024 tax rate for capital outlay and debt service receive proportional funding based on the percentage of the .0024 tax rate levied. (*Utah Code* 53A-21-103(1),(2)).
- b. If the local school board levies the .0024 tax rate during one year but, due to increased assessed valuations and a corresponding reduction in the certified tax rate, is prevented from levying the full .0024 tax rate during the subsequent year, the district will be considered to be in compliance with *Utah Code* 53A-21-103(1) if it levies the maximum allowable under these circumstances and shall continue to receive support under the foundation program for a period of up to two years without loss of state funding (*Utah Code* 53A-21-103(2)).
- c. The SOE distributes monies in the Capital Outlay Foundation Program in accordance with formulas developed by the State Superintendent of Public Instruction. The SOE distributes Capital Outlay Foundation monies on the basis of a minimum guarantee per average daily membership as computed by the State Superintendent of Public Instruction using:
 - 1) available monies; and
 - 2) the assessed valuation per average daily membership in each school district (*Utah Code* 53A-21-103(3)).

Suggested Audit Procedure:

If the district received Capital Outlay Foundation funds, ensure that it met the compliance criteria.

Enrollment Growth Program (*Utah Code* 53A-21-102(1); 53A-21-103.5)

Compliance Requirements:

To qualify for Enrollment Growth Program funds, the school district must meet the following criteria:

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The SOE distributes monies in the Enrollment Growth Program to qualifying school districts whose average net enrollment for the prior three years is a net increase in enrollment and yield per ADM is less than two times the prior year's average yield per ADM for Utah School Districts. School districts receive Enrollment Growth Program monies in the same proportion that the district's three-year average net enrollment bears to the total three-year net enrollment of all the districts that meet the criteria to receive Enrollment Growth Program funds.

Suggested Audit Procedure:

If the school district received Enrollment Growth Program funds, ensure that it met the compliance criteria.

Interest-bearing Loans from the School Building Revolving Account for School Districts (*Utah Code 53A-21-102(2); 53A-21-104; R277-451-4*)

Compliance Requirements:

To qualify for interest-bearing loans, the district must meet the following criteria:

- a. The district must send a loan application letter to the Director of School Finance and Statistics stating:
 - 1) The emergency condition or the condition that exists that would be better met through more traditional means for providing school building construction or renovation or both;
 - 2) the amount of loan sought;
 - 3) the proposed loan repayment schedule, not to exceed five years;
 - 4) the history of the last five years of loans or special supplementary funds received by the district from the USOE;
 - 5) minutes of the local board meeting recording the affirmative vote to levy the needed tax; and
 - 6) a signed agreement that if the district should default on a loan payment, the Superintendent may deduct the loan payment and added interest from the calculated per district state distribution after 90 days.
- b. The school district must do the following:
 - 1) Levy a tax of at least .0024 for capital outlay and debt service;
 - 2) Contract with the State Superintendent of Public Instruction to repay the monies with interest at a rate established by the state superintendent, within five years of their receipt, using future state building monies or local revenues or both;
 - 3) Levy sufficient ad valorem taxes under Section 11-14-19 to guarantee annual loan repayments, unless the state superintendent of public instruction alters the payment schedule to improve hardship situations; and
 - 4) Meet any other condition established by the State Board of Education pertinent to the loan. (*Utah Code 53A-21-104(3)*)

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- c. Monies received by a school district from the School Building Revolving Account may not exceed the district's bonding limit minus its outstanding bonds. (*Utah Code 53A-21-104(2)*)

Suggested Audit Procedure:

If the district received interest-bearing loans, ensure that the district met the compliance criteria.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

See: 2-Eligibility

4. REPORTING REQUIREMENTS

See: 2-Eligibility

5. SPECIAL TESTS AND PROVISIONS

See: 2-Eligibility

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-3
Page: 1 of 4
Subject: Driver Education
(SOE, Planning and Project Services, Educator Licensing, and Personnel Development)

TYPES OF AGREEMENTS: Allocated per *Utah Code*

TYPES OF RECIPIENTS: School Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 53A-13-201 through 207
Administrative Code Section R277-746

INFORMATION CONTACT: Gail L. Johnson - 538-7779
Specialist, Program Approval/Driver Education

A. PROGRAM OBJECTIVES:

The objectives of the Driver Education Program in Utah are to provide funds to local school districts to help cover the actual cost of providing driver education training, and to develop student knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles, including a proper acceptance of personal responsibility in traffic, and a true appreciation of the causes, seriousness, and consequences of traffic accidents.

B. PROGRAM PROCEDURES:

The State Office of Education ("SOE") prescribes rules for driver education courses in the public schools. The SOE reimburses certain costs for each school district that maintains driver education classes that conform to the rules prescribed by the Board. The reimbursement amount may not exceed \$100 for each student that has completed such a standard driving course during the school year. The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

- a. \$100 per student who has completed driver education during the school year.
- b. \$30 per student who has only completed the classroom portion in the school or through the electronic high school during the school year; or
- c. \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

A student who completes the course and does not pass, may retake the course a second time. The program may then receive an additional \$100 reimbursement.

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LEGAL COMPLIANCE AUDIT GUIDE

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Suggested Audit Procedure:

Ensure that the district has claimed for reimbursement only behind-the-wheel cost of the driver education program.

Compliance Requirement:

A school district maintaining driver education classes shall allow pupils enrolled in private schools located within the school district to enroll in driver education classes under the same terms and conditions as applied to students in public schools.

Suggested Audit Procedure:

Ensure that the district has policies which allow private school students to participate in driver education classes as required.

Compliance Requirement:

A course of behind-the-wheel driving shall include a minimum of six clock hours of instruction in a dual-control automobile under the direction and supervision of a qualified instructor. Up to three hours of this requirement may be fulfilled by use of driving ranges and simulators, with a limitation of one hour for simulators that are not fully interactive, in accordance with formulas prescribed by rule.

Suggested Audit Procedure:

Determine if the district has policies and procedures to ensure that students receive the required behind-the-wheel driving experience, and/or substitutions in accordance with SOE policy.

Compliance Requirement:

Following are the requirements regulating adult driver education programs:

- a. Classroom instruction shall include a minimum of eighteen clock hours. Behind-the-wheel instruction shall include a minimum of six clock hours of actual practice driving. Observation shall include an additional six clock hours.
- b. All instruction is to be given by a qualified driver education instructor. Teachers must meet the same standards as those required for regular high school instructors.
- c. All school-sponsored driver education classes for adults should be administered through the district's adult education division.
- d. Fees levied for those who take the adult driver education course should not exceed the cost of the program.

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Subject: Driver Education
(SOE, Planning and Project Services, Education Licensing, and Personnel Development)

Suggested Audit Procedures:

- a. Determine if the district has policies and procedures to ensure that adult driver education students receive the required behind-the-wheel driving experience, and/or substitutions in accordance with SOE policy.
- b. Determine if the district has policies and procedures that comply with the other requirements enumerated above.
- c. On a test basis, determine if the district complies with these policies by examining adult education records documenting student participation, teacher qualifications, etc.
- d. Perform a gross analysis comparing the cost of the adult driver education courses to the fees collected from students participating in the courses. Determine if the fee charged is less than the cost of providing the program.

2. ELIGIBILITY

Compliance Requirements:

- a. Local school districts may establish and maintain driver education classes for pupils enrolled in grades ten to twelve, inclusive. Districts and schools are allowed to make the decision when they feel it is best for their students to take the driver education course. Legally, a student may begin behind-the-wheel instruction at age 15 years. However, a student cannot begin the procedure of acquiring a regular operator's license until he/she is 16 years old and has held a Learner Permit for a minimum of six months.
- b. In order for a high school dropout to be claimed under the driver education reimbursement program, provisions of the law require the following procedures to be met:
 - i. A signed statement by the student declaring his/her intent to complete the requirements for a high school diploma.
 - ii. A signed statement by an authorized school officials declaring that the courses for which the student is enrolled qualify for adult high school credit.
- c. Only those adults who are enrolled in adult high school completion programs and have declared their intent to complete requirements for a high school diploma may be submitted by the school district for reimbursement from state driver education funds.

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Subject: Driver Education
(SOE, Planning and Project Services, Education Licensing, and Personnel Development)

Suggested Audit Procedure:

Determine if the district has policies and procedures to ensure that reimbursement is claimed for costs only for those persons who meet the eligibility standards. On a test basis, determine if costs claimed for reimbursement were for persons meeting the eligibility requirements.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

None.

4. REPORTING REQUIREMENTS

Compliance Requirements:

Reimbursement will be determined by information contained in the Student Membership Report (S-3).

Suggested Audit Procedure:

Determine if the information contained in the Student Membership Report is accurate. Ensure that the amounts reported agree to the district's student records.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The State Office of Education and local school districts must retain records for audit and evaluation for five years after each annual report is submitted.

Suggested Audit Procedure:

Determine if the district has retained records of its driver education program for five years by examining records for the previous five years.

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Department of Community & Culture (DCC):

Community Impact Grants	DCC-1
Community Impact Loans	DCC-2
Critical Needs Housing	DCC-3
Zoos Funding Pass-Through	DCC-4
Public Library Development Grants	DCC-5
Arts Council Grants Program	DCC-6
Not Used	DCC-7
Homeless Trust Funds	DCC-8

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-1
Page: 1 of 2
Subject: Community Impact Grants
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Cities
Counties
Special Service Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-4-305*

INFORMATION CONTACT: Keith Burnett, Program Info., 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The Permanent Community Impact Fund provides grants or loans to subdivisions of the State which are or may be socially or economically impacted, directly or indirectly, by mineral resource development.

B. PROGRAM PROCEDURES:

An 11-member board allocates Community Impact Funds through the approval of competitive applications. Eligible projects include: a) planning; b) the construction and maintenance of public facilities; and c) the provision of public services.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Community Impact Board (“CIB”) gives awards to perform a specific project or service. Each award has a contract amount and contract budget which details what is to be done and how the funds are to be spent. The funds can only be spent as detailed in the contract. Funds for projects over \$100,000 are generally placed in escrow. Any interest earned on the award must be spent on the project or returned to the CIB. Entities may request approval from the Board to use unexpended funds or interest for related or unrelated activity. The Board must approve the request before funds are expended.

Suggested Audit Procedures:

- a. Review the award to determine what type of activity was to be performed.
- b. Determine if expenditures have been made as required in the budget. Recipients are allowed a variance of 10% of the total contract amount, but all expenditures must be specifically project related.

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(DCC, Housing & Community Development Division)

- c. Ascertain that the accounting records have been handled in accordance with generally accepted accounting principles.
- d. Ascertain that interest earned has been spent on the project or that interest was eligible for additional project work as per Board approval.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The Community Impact Board Awards have a contract budget which may or may not list matching funds. Planning grants and studies always require 50% match.

Suggested Audit Procedures:

- a. Determines if the award has a required match.
- b. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The Community Impact Board requires that proper internal control procedures are in place to protect the receipt and expenditure of the CIB award.

Suggested Audit Procedures:

Review the internal control procedures of the agency to determine that there are adequate procedures in place to protect the CIB funds.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-2
Page: 1 of 2
Subject: Community Impact Loans
DCC, Housing & Community Development Division

TYPES OF AGREEMENTS: General Obligation Bonds, Voted and non-voted
Revenue Bonds

TYPES OF RECIPIENTS: Cities
Counties
Special Service Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-4-305*

INFORMATION CONTACT: Keith Burnett, Program Information 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The permanent Community Impact Fund provides loans to subdivisions of the State which are or may be socially or economically impacted, directly or indirectly, by mineral resource development.

B. PROGRAM PROCEDURES:

An 11-member board allocates Community Impact Funds through the approval of competitive applications. Eligible projects include: a) planning; b) the construction and maintenance of public facilities; and c) the provision of public services. The Community Impact Board ("CIB") gives loans in the form of contracts, general obligation bonds, and voted and non-voted revenues bonds.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Community Impact Board gives loans to perform a specific project or service. Loans are secured by bonds. A *Notice of Loan Authorization and Conditions* letter issued by the Chairman of the CIB details the terms of the project and the board. Prior to FY '94, the project budget presented in the CIB application was considered the project budget. Beginning in FY '94, a project budget has been included as part of the loan closing documents. Funds can only be spent for the specified project. All funds for the project are escrowed and any interest earned must be spent on the project or returned to the CIB.

Suggested Audit Procedures:

- a. Review the *Notice of Loan Authorization and Conditions* letter and the project budget to determine what type of activity was to be performed.
- b. Determine if expenditures have been made as required in the budget. Recipients are allowed a variance of 10% of the total loan amount, but all expenditures must be specifically project-related.

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- c. Ascertain that the accounting records have been handled in accordance with generally accepted accounting principles.
- d. Ascertain that interest earned has been spent on the project.

Compliance Requirement:

The *Notice of Loan Authorization and Conditions* details repayment and bond reserve requirements.

Suggested Audit Procedures:

- a. Ascertain that the CIB loan has been properly recorded in the financial records.
- b. Ascertain that the entity is fulfilling bond reserve requirements.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The *Notice of Loan Authorization and Conditions* outlines the sources of funding for the project.

Suggested Audit Procedures:

- a. Determine if all funding sources have contributed the required amounts.
- b. Determine if unused funds have been distributed back to funding agencies in relation to their contribution.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 1 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Cities, Towns, Counties, Association of Governments, Housing Authorities, non-profit groups

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 9-4-801 through 803
Executive Order signed by Scott M. Matheson 5 June 1984

INFORMATION CONTACT: Jonathan Hardy, Program Info. (801)538-8650
Kimberley Schmeling, Fiscal Info., (801)538-8727

A. PROGRAM OBJECTIVES:

The Critical Needs Housing Fund provides grants or loans for: (1) rehabilitation of low-income housing units; (2) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects; (3) shelters and traditional housing for the homeless; and (4) other activities that will assist in improving the availability or quality of housing in the state for low-income persons (*Utah Code* Section 58-18a-105).

B. PROGRAM PROCEDURES:

The Homeless Coordinating Committee allocates Critical Needs Housing Funds by a competitive application process.

1. *Request for Proposals* are published every March soliciting proposals; the due date is in April. The Homeless Coordinating Committee reviews applications in May and June and allocates funds generally by July 1.
2. Additional general information not specifically covered by the application form should also be furnished to the Department of Community and Economic Development when such information would be helpful to the Committee in appraising the merits if the project.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 2 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Loans or grants are made for the following purposes:

- Emergency home repair
- Land acquisition emergency housing
- Housing rehabilitation
- New construction
- Programs for better housing on Indian reservations
- Transitional housing for the homeless
- Group homes
- Emergency shelters
- Battered women's shelters
- Mortgage foreclosure prevention
- Temporary support to new housing authorities
- Special demonstration projects
- Self-help housing
- Home ownership programs
- Housing co-operatives
- Urban homesteading
- Homeless prevention

The contract outlines a specific amount and specific project or service to be performed.

Suggested Audit Procedures:

1. Determine amount of award
2. Determine if the funds have been spent in accordance with the contract budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 3 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Compliance requirements vary with the applications and/or projects. There is no statutory requirement for a specific matching fund ratio. If matching funds are required, it will be stated on the contract budget.

Suggested Audit Procedures:

1. Determine if the award has a required match.
2. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-4
Page: 1 of 2
Subject: Zoos Funding Pass-Through
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Utah Zoological Society (Hogle Zoo)
Logan City (Willow Park Zoo)

SOURCE OF AUTHORIZATION AND REGULATIONS: Authorization for DCC to provide pass-through funding to Hogle Zoo and Willow Park Zoo and setting the ratio of funding between the two zoos as established in HB-62 as passed by the 1985 General Session of the Utah Legislature. Total funding level is set in the DCC annual appropriation.

INFORMATION CONTACT: Keith J. Burnett, Program Info. 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The pass-through provides funding for the operations and maintenance of the Hogle Zoo in Salt Lake City and the Willow Park Zoo in Logan.

B. PROGRAM PROCEDURES:

Upon execution of a mutually agreed to contract and submission of an invoice by the grantees, the Division of Housing and Community Development will provide the grantees with the contract sum in two or more payments.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The funds provided to grantees under the contracts will be utilized solely for operations and maintenance of zoos in question, and no administrative costs incurred by the grantees will be paid with said funds. These administrative costs include: accounting, advertising, auditing, dues and publications, lease expense, legal, office supplies, postage administrative and clerical expenses including salaries and benefits, telephone, and fire and casualty insurance.

Suggested Audit Procedures:

Review operating and maintenance expenditures to insure they are equal or higher than the grant amount.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-4
Page: 2 of 2
Subject: Zoos Funding Pass-Through
(DCC, Housing & Community Development Division)

2. ELIGIBILITY

Compliance Requirements:

Utah Zoological Society and Logan City are the only eligible applicants. Auditor does not have to make test of eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

None.

4. REPORTING REQUIREMENTS

Compliance Requirements:

The following reports are required:

- a. Monthly Financial Reports - submitted not later than fifteen (15) days after the end of each month in a mutually agreed to format.
- b. Final Financial Report - submitted not later than August 31, in a mutually agreed to format.
- c. Grantees shall have conducted (at their expense) an independent audit. This audit will be prepared and filed with DCC within 90 days after the end of the fiscal year or contract period and will include an opinion as to whether the grantees' expenditure statement has been prepared in accordance with the provisions of the contract, is consistent with generally accepted accounting principles, and is in compliance with financial reporting requirements as established by the division.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 1 of 3
Subject: Public Library Development Grants
(DCC, State Library Division)

TYPES OF AGREEMENTS: Agreements

TYPES OF RECIPIENTS: Public Libraries in Cities, Towns and Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Annotated, Title 9-7-205(1)(f).

INFORMATION CONTACT: Bela Vastag
Financial Manager 715-6771

A. PROGRAM OBJECTIVES:

This program contributes funds to improve public library service and to assist and stimulate local government funding for public library service. Grant funds appropriated by the Utah Legislature are distributed by the State Library Division of DCC to eligible public library jurisdictions in a single public library development grant. Libraries qualify by meeting standards for public library service and maintaining local government financial effort on behalf of library service.

B. PROGRAM PROCEDURES:

The grants program is administered under policies adopted by the Utah State Library Board. After annually certifying the eligibility of each public library jurisdiction, the Division applies a formula which distributes funds based on the size of population served and a relative wealth component. The funding formula is expected to be revised annually.

After determining the amount of each grant the Division and the public library sign an agreement specifying the amount of the grant, expenditure deadlines, reports required, and the local government obligation for maintenance of effort for the coming year. Checks are disbursed based on the signed agreements. The Division monitors receipt of required reports and conducts field audits of expenditures as needed.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement

Grants can be used for any library-related purpose that improves service to the library's customers.

Grants cannot be used to match federal LSTA (Library Services and Technology Act) grants.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 2 of 3
Subject: Public Library Development Grants
(DCC, State Library Division)

Suggested Audit Procedures:

1. Determine amount to award.
2. Determine if all funds have been spent within the given time limit.
3. Determine if compliance requirements were met.

2. ELIGIBILITY

Compliance Requirement

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

Matching: Matching funds are not required

Level of Effort: Local governments must expend from local government sources an aggregate amount for library service (exclusive of capital outlay) of not less than 90% of that actually expended in the second preceding fiscal year. An exception may be granted if overall local government funding was reduced. The applicant must file a "Certification of Jurisdiction-wide Budget Reductions" which must be approved by the State Library before funding is approved.

Suggested Audit Procedure:

Unless a waiver was granted, determine if at least 90% of that actually expended in the second previous year was spent in the year under audit.

Earmarking Requirements: Must comply with "Allowed Services" above.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 3 of 3
Subject: Public Library Development Grants
(DCC, State Library Division)

4. REPORTING REQUIREMENTS

Compliance Requirements:

Libraries must submit an annual report of expenditures of grant funds on the form specified by the Division. (Note: In order for libraries to qualify for the grants, they must also submit an annual financial and statistical report to the Division and meet certification requirements.)

Suggested Audit Procedure:

Determine that an expenditure report of grant funds was submitted to the Division during the year under audit.

5. SPECIAL TESTS AND PROVISION

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 1 of 3
Subject: Arts Council Grants Program

TYPES OF AGREEMENTS: Application and Contract Letters

TYPES OF RECIPIENTS: Nonprofit Organizations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 64-2-1* and numerous Federal regulations which are listed in the contract packet or can be obtained directly from information contact at Utah Arts Council (UAC)

INFORMATION CONTACT: Sherry Waddingham, (801) 236-7550
Grants & Endowments Manager, Utah Arts Council
617 East South Temple
Salt Lake City, UT 84102-1177

A. PROGRAM OBJECTIVES:

The fair and equitable distribution of grant dollars to nonprofit organizations statewide in support of quality arts projects and programming. (Grant dollars are derived from Utah Arts Council's annual state appropriation and from Federal funds through the Council's Basic State Grant awarded by the National Endowment for the Arts.)

B. PROGRAM PROCEDURES:

Applicants for Utah Arts Council ("UAC") grant dollars must be incorporated as nonprofit organizations and have obtained federal tax exempt status. In addition all requests must be matched at least dollar-for-dollar with cash from other sources. Applicants submit a Utah Arts Council grant application form to UAC describing their proposed project, its anticipated budget and requesting a specific dollar amount from the Council. Applications are then scrutinized in a three-tier review process, first by advisory panels of peers, next by committees of the UAC Board, and finally by the 13-member UAC Board of Directors where funding decisions are made. There are six different application categories, each with specific criteria for applicants beyond the basic criteria of nonprofit/tax exempt status and matching monies. After grants are awarded and projects complete, grantees must submit a final UAC Evaluation Report Form to the Council describing the actual project, providing actual budget information and showing evidence of cash match. Ninety percent of grant award dollars are available to grantees prior to their project, with the final 10% payment made upon receipt of their final Evaluation Report. Council Board members, staff, and advisory panelists make every attempt to attend grantee projects for purposes of on-site review; and, when attending, they complete a UAC On-Site Review Evaluation Form which becomes part of the grantee file.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 2 of 3
Subject: Arts Council Grants Program

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Utah Arts Council Grants Program supports a wide variety of arts projects/activities. UAC maintains a list of funding priorities and limitations. Funds awarded must be used for the project described in the grantee application and cannot be diverted to other purposes or projects without prior written consent from Utah Arts Council Board of Directors.

2. ELIGIBILITY

Compliance Requirement:

Applicants to the Grant Program must be nonprofit organizations which are tax exempt in nature, and dollars must be requested for support for arts projects which are open to everyone.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Grantees must match grant dollars at least dollar-for-dollar with cash from other sources, i.e., private support, earned income, corporate or foundation support, other government sources of support, etc.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Grantees must complete and submit a Utah Arts Council Evaluation Report Form upon project completion, describing the actual project, providing actual budget information and showing evidence of cash match for monies awarded. The final 10% payment on all grant awards is withheld until such report is received. Projects must be completed within a one-year period.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 3 of 3
Subject: Arts Council Grants Program

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

As subgrantees of the National Endowment for the Arts, Utah Arts Council grantees must also submit to selected Federal regulations. A copy of the *National Endowment for the Arts Summary of Selected Regulations for Subgrantees* is available from the UAC.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-8
Page: 1 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Cities, Towns, Counties, Association of Governments,
Housing Authorities, Non-Profit groups

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 9-4-801 through 803

INFORMATION CONTACT: Jonathan Hardy, Program Info. (801)538-8650
Kimberley Schmeling, Fiscal Info., (801)538-8727

A. PROGRAM OBJECTIVES:

Programs funded by the committee emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who are mentally ill and who are in families with children. The committee may also fund treatment programs to ameliorate the effects of substance abuse or handicap (*Utah Code* 9-4-802).

B. PROGRAM PROCEDURES:

The legislature establishes a State Homeless Coordinating Committee which committee shall allocate the funds by a competitive application process.

1. A "Request for Proposals" is published every February soliciting proposals; the due date is in April. The Committee reviews applications in May and June and allocates funds generally by July 1.
2. Additional general information not specifically covered by the application form should also be furnished to the Department of Community and Culture when such information would be helpful to the committee in appraising the merits of the project.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-8
Page: 2 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Grants are given for the following purposes:

- Land acquisition
- Shelter rehabilitation
- Administrative costs of emergency shelters
- Homeless Prevention
- Mental health services
- Substance abuse services
- Transitional housing for the homeless
- Group homes
- Mortgage foreclosure prevention
- Other homeless activities

The contract outlines a specific amount and specific project or service to be performed.

Suggested Audit Procedures:

1. Determine amount of award
2. Determine if the funds have been spent in accordance with the contract budget.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

Compliance requirements vary with the applications and/or projects. There is no statutory requirement for a specific matching fund ratio. If matching funds are required, it will be stated on the contract budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-8
Page: 3 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

Suggested Audit Procedures:

1. Determine if the award has a required match
2. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Department of Environmental Quality (DEQ):

DEQ Programs

DEQ-1

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DEQ-1
Page: 1 of 2
Subject: DEQ Programs

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Local Health Departments (LHD)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 19-1 through 19-8 and associated Rules R305 through R317

INFORMATION CONTACT: Craig Silotti (801-536-4460)

A. PROGRAM OBJECTIVES:

The objectives of this program are to safeguard human health and quality of life by protecting and enhancing the environment; reduce environmental health risks through assistance, education and oversight; and to assure that environmental programs conform to state rules and federal regulations designed to protect public health, safety, and the environment.

B. PROGRAM PROCEDURES:

The State Department of Environmental Quality contracts annually with LHDs to carry out environmental programs such as the following: LHD Environmental Services, Used Oil, Underground Storage Tanks, Lead Program, Radon Program, and Drinking Water Sanitary Survey. All of the state funded environmental programs performed by the LHDs are addressed in one master contract with the Department of Environmental Quality. The contract contains a work plan and reporting requirements for the LHDs. Contract payments are made to the LHDs quarterly. Annual and program reports are required.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

- a. Inspections by LHDs.
- b. Travel to inspections.
- c. Generating, filing, and mailing forms and reports.
- d. Response to environmental health risks.
- e. Inspection of sites for proper operations, record keeping, and compliance investigations.
- f. Reporting to the state non-compliance with rules and regulations found during inspections.
- g. Providing technical assistance and regulatory information to the regulated communities.
- h. Providing input on environmental issues affecting LHD jurisdictions.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DEQ-1
Page: 2 of 2
Subject: DEQ Programs

Suggested Audit Procedures

- a. Review contract performance requirements as contained in work plan attached to and incorporated in each contract.
- b. Review annual and program reports and determine that work reported was performed.

2. ELIGIBILITY

Compliance Requirement:

None.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

No local match required under the contract.

4. REPORTING REQUIREMENTS

Compliance Requirements:

Reports are required on state format for various environmental programs, indicating numbers and types of inspections, investigations, contracts with owners, and hours invested in the program. Drinking Water survey forms, indicating the date of the inspection, or investigation of and emergency response are also required.

Suggested Audit Procedures:

Auditor should review annual work plan attached to contract to determine reporting requirements and then review required reports as to contract stipulations.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Health (DOH):

EMS Fines – Grants	DOH-1
Tobacco Prevention and Control Program	DOH-2
Public Health Services	DOH-3

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-1
Page: 1 of 2
Subject: EMS Fines - Grants
(DOH, Community Health Services)

TYPES OF AGREEMENTS: Grants

TYPES OF RECIPIENTS: Agencies that actively provide emergency medical services within the State.

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 26-8-2.5*

INFORMATION CONTACT: Paul R. Patrick (801) 538-6291
Leslie Johnson (801) 538-6292

A. PROGRAM OBJECTIVES:

To improve the statewide delivery of emergency medical services.

B. PROGRAM PROCEDURES:

\$3,000,000 is allocated every fiscal year, not all of which is expended by grantees. Funds shall be used for improvement of statewide delivery of EMS, administration costs for the program and the trauma program. The department may use the funds to provide staff support and all other expenses in administration of grant funds and other department administrative costs under this chapter. After funding staff support, administrative expenses and trauma system development, the department shall distribute 42.5% as per capita grants directly to nonprofit prehospital emergency medical service providers based on a county per capita allocation for use specifically related to the provision of emergency medical services providers; 42.5% through a competitive grants program approved by the State Emergency Medical Services (EMS) Committee; and 15% to fund high school emergency medical training programs.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Services, activities, or purchases allowed or unallowed through the **competitive grants process** are preliminarily recommended by the EMS Grants Subcommittee and approved by the State EMS Committee. Other requirements and restrictions are defined under the TERMS section of the grant.

Compliance Requirements:

Services, activities, or purchases allowed through the **per capita grants process** are, by state statute, "specifically related to the provisions of emergency medical services and approved by the Department of Health." Other requirements and restrictions are defined under the TERMS section of the grant.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-1
Page: 2 of 2
Subject: EMS Fines - Grants
(DOH, Community Health Services)

Compliance Requirements:

Services, activities, or purchases allowed through the **high school training program** are defined by the Department of Health through contracts.

2. ELIGIBILITY

Compliance Requirements:

- a. Any agency actively providing emergency medical services within the State may apply for funding through the competitive grants program.
- b. Licensed or designated pre-hospital emergency medical service provider agencies who employ state certified pre-hospital personnel are eligible for per capita funds. Such agencies include, but may not be limited to, the following: ambulance services, paramedic services, first responder agencies, fire departments, police departments, sheriff's office and dispatch agencies.
- c. Funding may be provided to a single non-profit entity to conduct the high school training program, which is, at the present time, the State Office of Education. Funds may be provided to agencies for EMT training scholarships for high school students.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

- a. No matching funds are required in the per capita or high school training grants programs.
- b. In order to expend available funding for competitive grants, matching requirements of up to 50% have been defined by the State EMS Committee under Grant Rules and Guidelines. Per capita grant funds may be used as match for competitive grants.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Reporting requirements are limited to competitive and high school training grants where an activity is involved. Such grants usually refer to the reporting requirement defined in the grant application.

5. SPECIAL TESTS AND PROVISIONS

See the grant's "TERMS" section for other requirements.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-2
Page: 1 of 2
Subject: Tobacco Prevention and Control Program
(DOH, Division of Community & Family Health Services)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Local Health Departments, Other (Community-Based Organizations)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 63-97-401, 63-97-201, 59-14-204, 26-5-2, 26-7-1, 26-38-9, 26-42-104, 26-43-102*

INFORMATION CONTACT: Heather Borski, (801)538-9998

A. PROGRAM OBJECTIVES:

The Tobacco Prevention and Control Program incorporates statewide tobacco education/prevention activities which are intended to reduce tobacco use among Utahns.

B. PROGRAM PROCEDURES:

Funds are used to implement various tobacco prevention and cessation programs targeted to students, teachers, and staff in schools, as well as retailers, law enforcement agencies and the general citizenry in communities. Contracts are distributed to local health departments (LHDs) and other community agencies at the beginning of the State fiscal year (July 1 - June 30). Funding is generally distributed via cost-reimbursement and expenditures are allowed through the fiscal period (June 30).

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED AND UNALLOWED

Compliance Requirement:

Only salaries, benefits, travel, and current expenses which were directly related to the program are allowed. (Non-reimbursable costs include: any space costs, computer equipment costs, and expenses not directly related to the program. Space costs and computer equipment are occasionally allowed with prior approval.)

2. ELIGIBILITY

Compliance Requirement:

The auditor is not expected to make tests for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-2
Page: 2 of 2
Subject: Tobacco Prevention and Control Program
(DOH, Division of Community & Family Health Services)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Entities receiving these funds must file a quarterly report. They are due 15 to 30 days after the end of each quarter to the Department of Health.

Entities receiving these funds must also comply with reporting requirements set forth in *Utah Code* 63-97-401, 63-97-201, and 59-14-204.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-3
Page: 1 of 2
Subject: Public Health Services
(DOH, Division of Epidemiology and Laboratory Services)

TYPES OF AGREEMENTS: Contract (block grant)
TYPES OF RECIPIENTS: Local Health Departments (LHD)
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 26A-1-106(1)(c)*
Utah Administrative Rule 380-40
Administrative rules and regulations, etc.
INFORMATION CONTACT: Teresa Garrett, Div. Director (801) 538-6128
Robert Kolan (801) 538-6015

A. PROGRAM OBJECTIVES:

To improve and maintain public health services through the enhancement of the ability of local health departments to deliver basic public health services.

B. PROGRAM PROCEDURES:

Funds are contracted to local health departments through contracts using a block grant format, i.e., the LHD may choose which services to support and the level of support assigned to them out of the contract funds. A list of approved services is contained in the contract. Contracts are negotiated with each local health department. Funds are advanced on a quarterly basis.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

- a. Contract funds may be used only to support basic public health services. Typical examples include immunization, injury control, sexually transmitted disease, and child health clinics.
- b. The contracts generally support direct services but may provide support for administrative activities including data collection and planning function, etc.
- c. Contract funds may not be used to fund the construction of capital facilities, purchase large equipment items, or to supplant existing funds.

2. ELIGIBILITY

Compliance Requirements:

Only local health departments are eligible to receive these funds.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-3
Page: 2 of 2
Subject: Public Health Services
(DOH, Division of Epidemiology and Laboratory Services)

3. MATCHING LEVEL EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

All LHDs are required to match State General Funds with county general funds, i.e., funds collected through local property taxes. The match ratio is negotiated with the Department of Health and local health departments annually. The Contact person will have the match requirements which are negotiated annually.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The contracts require the submission of monthly expenditure reports.

5. SPECIAL TESTS AND PROVISION

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Department of Natural Resources (DNR):

Conservation & Development Fund	DNR-1
Cities Water Loan Program	DNR-2
Wild Fire Suppression	DNR-3
Revolving Construction Fund	DNR-4

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-1
Page: 1 of 2
Subject: Conservation & Development Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: Contracts or Bonds

TYPES OF RECIPIENTS: Political subdivisions of the state(cities, towns, districts), private corporations, and other incorporated entities, federal government, Indian tribes

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of agricultural irrigation projects, municipal culinary projects, municipal irrigation projects, industrial water projects, and flood control projects.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will enter into an agreement with or purchase a bond from the applicant once certain conditions are met, if an agreement, the Board takes title to the project and the applicant's water rights, and the applicant purchases the project on an installment contract.. The proposed project will be constructed based on engineering plans and specifications.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

Funds can be provided for engineering, legal, administration, and construction of any eligible project. Interest charged can vary from 1% to 7% based on the type of facility being constructed and the applicant's ability to pay. The normal repayment period is from 10 to 35 years. Engineering design may be done by the Division of Water Resources' staff if time and other factors permit.

Hydropower generation portions of a project must be paid by the applicant or other agencies.

2. ELIGIBILITY

The auditor is not required to test for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-1
Page: 2 of 2
Subject: Conservation & Development Fund
(DNR, Division of Water Resources)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Applicant shall pay a share of the project cost, depending on its ability (normally about 15%). The percentage is set at time of authorization.

4. REPORTING REQUIREMENTS

Compliance Requirement:

For applicants using the bonding method, an annual audit is required to be submitted to the Board of Water Resources which contains the following information:

- a. A statement showing revenues and expenditures for the fiscal year.
- b. A balance sheet for the fiscal year.
- c. The auditor's comments on the applicant's compliance with the requirements of the bond resolution along with recommendations for improvements needed in the operation of the water system.
- d. A list of insurance policies (fidelity bonds) in force at the end of the fiscal year, listing the amount of each policy, the risks covered, the name of the insurer and the expiration date of the policy.
- e. The number of properties connected to the water system at the end of the fiscal year.
- f. An analysis of all funds created in the bond resolution disclosing all deposits and disbursements made during the fiscal year and the amount in each fund at the end of the fiscal year.
- g. The number of water connections, disconnected homes within the service area and pending applications for water service at the end of the fiscal year.
- h. The total billings for the fiscal year and the average monthly billing per customer for service.
- i. All schedules of rates and charges imposed for water service during the fiscal year.

5. SPECIAL TESTS AND PROVISIONS (For applicants using the bonding method.)

Compliance Requirements:

- a. The applicant must follow normal bonding procedures as they apply to political subdivisions.
- b. Plans and specifications for the construction must be approved by the Division of Water Resources and, for municipal culinary and irrigation projects, by the Division of Drinking Water.
- c. The applicant must submit an attorney's opinion as to all easements and title to the water rights.
- d. The applicant must secure a fidelity bond on officials with access to repayment funds.
- e. The applicant must either hold a bond election or send notices of intent to all water users and hold a public hearing to ascertain public support.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-2
Page: 1 of 2
Subject: Cities Water Loan Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: General Obligation, Water Revenue, Special Assessment, and other bonds.

TYPES OF RECIPIENTS: Political subdivisions of the state (cities, towns, districts)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of municipal culinary and irrigation water projects.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will purchase a bond from the applicant once certain conditions are met. The proposed project will be constructed based on engineering plans and specifications.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Loan funds can be provided for engineering, legal and administrative fees, and construction of municipal culinary and irrigation water system improvement projects. Interest rates charged can vary from 0% to 5% and the normal repayment period is from 10 to 25 years.

Hydropower generation portions of a project must be paid by the applicant or other agencies.

2. ELIGIBILITY

Compliance Requirement:

Projects must be municipal culinary or irrigation water projects serving areas with at least 50% year-round residents.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-2
Page: 2 of 2
Subject: Cities Water Loan Fund
(DNR, Division of Water Resources)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

- a. Applicant must hire an engineering consultant to do the design.
- b. Applicant shall pay a share of the project cost, depending on its ability (normally about 20%). The percentage is set at time of authorization.

4. REPORTING REQUIREMENTS

Compliance Requirements:

- a. If an annual audit is required by other state directives, a copy of such audit is to be submitted to the Division of Water Resources.
- b. The following information shall be submitted annually to the Division of Water Resources (may either be part of an audit or on a separate form):
 - 1) A water system statement of revenues and expenditures for the fiscal year.
 - 2) A water system balance sheet.
 - 3) A list of fidelity bonds in force at the end of the fiscal year listing the amount of coverage, the risks covered, the name of the insurer and the expiration date.
 - 4) The balance in the Reserve and Emergency Repair and Replacement Funds created in the bond resolution at the end of the fiscal year.
 - 5) The number of connections to the water system at the end of the fiscal year.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

- a. The applicant must follow normal bonding procedures as they apply to cities and towns.
- b. Plans and specifications for construction must be approved by the Division of Water Resources and the Division of Drinking Water.
- c. The applicant must submit an attorney's opinion as to all easements and title to the water rights.
- d. The applicant must secure a fidelity bond on officials with access to repayment funds.
- e. The applicant must either hold a bond election or send notices of intent to all water users and hold a public meeting to ascertain public support.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-3
Page: 1 of 2
Subject: Wild Fire Suppression
(DNR, Division of Forestry, Fire and State Lands)

TYPES OF AGREEMENTS: Written cooperative wildland fire agreement.

TYPES OF RECIPIENTS: Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 65A-8-5 and 65A-8-6*

INFORMATION CONTACT: Tracy Dunford or Roger Lewis, 538-5555

A. PROGRAM OBJECTIVES:

To abate the public nuisance of uncontrolled fires burning on state or private forest, range or watershed lands and to see that adequate, appropriate action is taken to control such fires. Appropriate action is any suppression effort made for which costs of such effort is commensurate with values at risk.

B. PROGRAM PROCEDURES:

The Division establishes and maintains a written cooperative wildfire agreement with each county. The agreement indicates the supervisory aid and cooperation to be provided by the state and county in the program as well as financial arrangements. A mutually agreed upon annual budget between the county and state forester is set up to cover normal fire suppression costs as defined by the Forestry, Fire and State Lands rules. A county participating in the wildland fire protection system with the State may petition the State in writing for assistance in paying fire suppression costs of one-half of that which exceeds the determined norm, or if eligible, to have fire suppression costs covered by the Wildland Fire Suppression Fund.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Any type of service that is requested by a county or State representative for the Wildland Fire Program directly related to the control efforts of a wildfire are allowed. An exception is the County Sheriff's Department. If the Sheriff decides to provide a service to a fire suppression effort on their own, such costs are not allowed. If any cooperator of the State's Wildland Fire Program takes independent action to supply resources to suppress a wildfire, that was not specifically requested by authorized personnel, the cost of such services is not allowed.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-3
Page: 2 of 2
Subject: Wild Fire Suppression
(DNR, Division of Forestry, Fire and State Lands)

2. ELIGIBILITY

The auditor is not required to test eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The annual wildland fire budget provides for the county to pay half the cost of the designated fire warden position, for fire prevention materials, maintenance of firefighting apparatus and equipment, other suppression resources, and any other items the State Forester and county agree are needed. If a county chooses to participate in the Wildland Fire Suppression Fund they will have to pay the required assessment. It is the county's duty to abate the public nuisance of uncontrolled fire on private or county owned forest, range, or watershed lands. Actual costs of suppression are a charge against the county unless provided otherwise by cooperative agreement. The State Forester shall see appropriate action is taken to control fires on non-federal forest, range, or watershed lands.

4. REPORTING REQUIREMENTS

Compliance Requirement:

A county requesting financial aid from the Division must do so in writing. They must provide documentation to substantiate their fire suppression expenditures beyond the norm.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The county agrees to allow an audit of its books each year to verify wildland fire control expenditures. Audit information is used to establish the annual wildland fire budget and to substantiate request for financial aid for expenditures beyond the norm.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-4
Page: 1 of 2
Subject: Revolving Construction Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Incorporated entities owning clear title to a water right.

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of agricultural and (when applicant is not a city or town) small municipal irrigation projects, rural culinary projects, and dam safety studies.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will enter into an agreement with the applicant once certain conditions are met. The project will be constructed based on engineering plans and specifications. The Board takes title to the project and the applicant's water rights, and the applicant purchases the project on an installment contract.

There are no compliance requirements other than to determine that the applicant's income is adequate to make annual payment. Therefore, no testwork is required for the applicants.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

- a. Funds can be provided for engineering, legal, administration and construction of any eligible project.
- b. Interest is not charged.
- c. The normal repayment period is from 10 to 25 years.
- d. Engineering design may be done by the Division of Water Resources' staff if time and other factors permit.
- e. Hydropower generation portions of a project must be paid by the applicant or other agencies.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-4
Page: 2 of 2
Subject: Revolving Construction Fund
(DNR, Division of Water Resources)

2. ELIGIBILITY

Compliance Requirement:

The auditor is not required to test for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Applicant shall pay a share of the project cost, depending on its ability (normally about 25%).
The percentage is set at the time of authorization.

4. REPORTING REQUIREMENTS

None.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Department of Human Services (DHS):

Alternatives (Fixed Dollar Contracts)	DHS-1
Residential Service	DHS-2
Adult Services - HCB Alternatives Program	DHS-3
Children's Trust Account	DHS-4
Children's Behavioral Therapy Unit (CBTU)	DHS-5
Mental Health Contracts	DHS-6
Substance Abuse Contracts	DHS-7

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-1
Page: 1 of 2
Subject: Alternatives
DHS, Division of Juvenile Justice Services

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Private Organizations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 62A-7-104, 62A-7-107.5, and 62A-7-701*

INFORMATION CONTACT: Jan Short, 538-4115

A. PROGRAM OBJECTIVES:

To provide care, treatment and supervision for youth offenders committed to the Division by juvenile courts for out of-home, and/or community supervision in secure and non-secure programs.

B. PROGRAM PROCEDURES:

Youth committed to the custody of Juvenile Justice Services by the juvenile court for community placement are evaluated by Division of Juvenile Justice Services (DJJS) staff for needed services; and then placed with the appropriate community program for those services. The treatment plan and length of stay are determined by the Division with input from the private provider.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Allowed costs for services as specified in OMB Circular A-87, A-122 (or the appropriate OMB Circular referenced in the contract) and include residential care, mental health services, day treatment services and intensive supervision services.

2. ELIGIBILITY

Compliance Requirement:

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-1
Page: 2 of 2
Subject: Alternatives
DHS, Division of Juvenile Justice Services

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

- a. The provider submits monthly billings (or as otherwise specified in their contracts) to Juvenile Justice Services which list all services provided to each youth.
- b. Providers must submit annual financial or audit reports performed in accordance with government auditing standards. (See contract for specifics.)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-2
Page: 1 of 2
Subject: Residential Service
DHS, Division of Mental Health

TYPES OF AGREEMENTS: Contract
TYPES OF RECIPIENTS: Mental Health Authorities (Centers)
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 63-56 and 62A-15-110*
INFORMATION CONTACT: John G. Bell, 538-4072

A. PROGRAM OBJECTIVES:

To assure the provision of appropriate community-based mental health services to persons who are ready for discharge from the State Hospital or a nursing care facility and can benefit from a more independent living situation in a community-based residential facility. Special priority may be specified by the Division of Mental Health for persons who reside in the State Hospital.

B. PROGRAM PROCEDURES:

The Division contracts for services with the Authorities. Clients are placed with the Centers for care and treatment. The Center must meet State licensure requirements. Reimbursement is made upon receipt of a billing from the Center.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Twenty-four hour residential care is allowed, including costs of treatment and administration.

2. ELIGIBILITY

Compliance Requirement:

There are no specific eligibility requirements. These funds serve seriously mentally ill adults at risk of placements in nursing homes or the State Hospital or ready for discharge from a nursing home or the State Hospital, based on clinical judgment.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-2
Page: 2 of 2
Subject: Residential Service
DHS, Division of Mental Health

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

None.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-3
Page 1 of 2
Subject: Adult Services - HCB Alternatives Program
DHS, Division of Aging and Adult Services

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Area Agencies
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 62A-3-104*

INFORMATION CONTACT: Nels Holmgren, (801) 538-3921

A. PROGRAM OBJECTIVES:

To provide supportive services which enable functionally impaired adults, who are outside of needing long term institutional care, to remain in their own homes and prevent inappropriate or premature institutionalization.

To improve the quality of life and help to preserve maximum independence and personal dignity of recipients.

B. PROGRAM PROCEDURES:

Area Agencies and Counties enter into contracts with the Department. They may subcontract for service delivery. Reimbursement is made monthly by the Department upon receipt of billing from provider.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Allowed services include:

- a. Assessment by a Case Manager to determine if services are needed.
- b. Care Plan written by a Case Manager with the client's input.
- c. A maximum of \$750 monthly expenditures for services unless waiver is obtained by agency director or designee.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-3
Page 2 of 2
Subject: Adult Services - HCB Alternatives Program
DHS, Division of Aging and Adult Services

2. ELIGIBILITY

Compliance Requirement:

Program participants must meet the following eligibility requirements:

- a. Persons age 18 and over. (25% of clients may be under age 60.)
- b. Fees assessed based on Department fee schedule #1.
- c. \$6,000 assets for 1 person, \$12,000 assets per couple (family).
- d. Risk score of moderate to high on DAAS approved assessment.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The following reports are required:

- a. Quarterly Care Plan Review
- b. Annual Reassessment

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-4
Page: 1 of 2
Subject: Children's Trust Account
(DHS, Division of Child and Family Services)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Private and Public Non-Profit Organizations,
For-Profit Organizations, or if appropriate, an individual

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 62A-4a-309*

INFORMATION CONTACT: Elizabeth Kuhlman, (801) 538-4340

A. PROGRAM OBJECTIVES:

Programs contracted shall be designed to provide voluntary primary child abuse and neglect prevention, and voluntary or court ordered treatment services. These services shall be community based.

B. PROGRAM PROCEDURES:

Funds for prevention services are provided through the Children's Trust Account. By law, the Legislature instituted a Child Abuse and Neglect Advisory Council which is charged with the responsibility to advise the Board of Child and Family Services on matters relating to child abuse and neglect and allocation of funds contained in the Children's Trust Account. The Council advises the Board and Division staff in establishing policies and procedures for administering the fund. The Council also participates in the development of a plan to allocate resources for prevention. All of the money appropriated from the Children's Trust Account to the Division is awarded through the Request for Proposal process. All proposals are presented to a panel who rate the proposals and, based upon the rating, contracts are awarded. Payments are made to the provider through the Utah Social Services Delivery System or Finet System upon receipt of billing.

COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Allowed services include:

Funds from the Children's Trust Account (CTA) shall be used for community-based education, service, and treatment programs to prevent the occurrence and reoccurrence of child abuse and neglect as specified in 62A-4a-305 (UCA). Programs contracted under this legislative designation shall be designed to provide voluntary primary child abuse and neglect prevention education and services, and voluntary or court-ordered treatment. Administrative costs, not to exceed 25% of the total costs associated with providing the services described above.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-4
Page: 2 of 2
Subject: Children's Trust Account
(DHS, Division of Child and Family Services)

2. ELIGIBILITY

Compliance Requirement:

None.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Each contractor is required to provide a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the Children's Trust Account.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Each contractor is required to file a quarterly report with the Division regarding activities and number of children and families served, outcomes/results achieved and implementation problems or barriers to accomplishing goals and objectives. In lieu of the 4th quarter report, each contractor is required to file an annual report regarding total expenditures (contract and match), quantitative information (number of persons served, numbers of events, activities, presentations, etc.), qualitative information (outcomes/results) and implementation problems or barriers to accomplishing goals and objectives.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-5
Page: 1 of 2
Subject: Children's Behavioral Therapy Unit (CBTU)
DHS, Division of Mental Health

TYPES OF AGREEMENTS: Contract
TYPES OF RECIPIENTS: Mental health organizations
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 62A-15-110*
INFORMATION CONTACT: John G. Bell, 538-4072

A. PROGRAM OBJECTIVES:

Day treatment services are provided to eligible individuals who are in need of training in cognitive development, self-help skills, self-sufficiency skills, fine and gross motor skills, speech therapy, and audiology, etc.

B. PROGRAM PROCEDURES:

Eligibility is determined by the local authority contracts. Services are provided by contractor as stipulated in the contract. The contractor does an admission, 30 day evaluation, and provides services as stipulated in the contract and the Individual Service Program Plan. Reimbursement is made upon receipt of billing from provider.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Habilitative day treatment and education type services are allowed.

2. ELIGIBILITY

Compliance Requirement:

Eligibility is determined by DHS-Division of Mental Health. Therefore, the auditor is not required to test for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-5
Page: 2 of 2
Subject: Children's Behavioral Therapy Unit (CBTU)
DHS, Division of Mental Health

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The contractor must keep ongoing data on clients. Also a six month review, and an annual Individual Education Plan are required.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

See the contract, Part 2, for other compliance requirements.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-6
Page: 1 of 5
Subject: Mental Health Contracts
DHS, Division of Mental Health

TYPES OF AGREEMENTS: Mental Health Contracts

TYPES OF RECIPIENTS: Mental Health Authorities - Counties, Interlocal Agencies, Associations of Governments, Nonprofit Corporations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 17-43-301-309, 62A-15-110*

INFORMATION CONTACT: John G. Bell - Phone 538-4072
Division of Substance Abuse and Mental Health

A. PROGRAM OBJECTIVES

To provide a comprehensive continuum of mental health services as defined in statute as follows:

Services for adults, youth and children including but not limited to, the following: inpatient care and services, 24-hour crisis care and services, psychotropic medication management, psychological rehabilitation including vocational training and skills development, case management, community supports including in-home services, housing, family support services, and respite services; and consultation and education services, including but not limited to, case consultation, collaboration with other service agencies, public education and public information. (*Utah Code, Section 17-43-301 (4) (b)*)

Offer and provide services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance. Have responsibility for supervision and treatment of mentally ill persons who have been committed to its custody, whether residing in the State Hospital or not. (*Utah Code, Section 62A-15-207 (1)*)

B. PROGRAM PROCEDURES

All county governing bodies in the State of Utah are local mental health authorities except in Wasatch County where the County Manager is the Authority. The local mental health authorities shall provide mental health services to persons within their respective counties. (*Utah Code, Section 17-43-301*). Two or more county legislative bodies may join together to provide mental health prevention and treatment. (*Utah Code, Section 17-43-301 (2)(a)*)

Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those funds are utilized in accordance with federal and state law, the rules and policies of the Department of Human Services and the Department of Health, and related contractual provisions. (*Utah Code, Section 17-43-301 (3)(a)*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-6
Page: 2 of 5
Subject: Mental Health Contracts
DHS, Division of Mental Health

This *Audit Guide* focuses on State grants to local governments and nonprofit entities and does not address audit requirements for federal programs. The contracts made by the Division of Mental Health to the local authorities for mental health programs usually contain 80% State funds and 20% federal funds. There is also a requirement for a local match equaling 20% of the State funds. The federal funds received under these contracts are subject to single audit but may or may not be tested depending on whether the entity is required to have a single audit and whether the independent auditor selects the program for testing. This section of the *Audit Guide* is applicable to any local government or nonprofit entity that is required to have an audit in accordance with this *Audit Guide* and expends \$100,000 or more of state funds under a mental health contract whether or not the entity's mental health programs have been tested during the single audit for the same year. However, some federal compliance tests, if performed during the current year, may satisfy tests required in this section.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

State and federal funds appropriated to local mental health authorities are to be used only for mental health purposes and in accordance with the contracts established between the auditee and the State Division of Mental Health and/or the local mental health authority. (*Utah Code, Section 67-3-1(10)(b)(iii & iv)*)

Suggested Audit Procedure:

Review the mental health contracts and determine whether the mental health funding is being used in accordance with the contracts.

2. ELIGIBILITY

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Local mental health authorities must provide matching funds equal to at least 20% of the state funds that it receives to fund services described in the plan. (*Utah Code, Section 17-43-301(4)(a)(x)*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-6
Page: 3 of 5
Subject: Mental Health Contracts
DHS, Division of Mental Health

Suggested Audit Procedure:

Review financial records to determine whether the matching requirement has been met.

4. REPORTING REQUIREMENTS

The auditor is not expected to test required reports.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirements:

Before disbursing any public funds, local mental health authorities shall require that all entities that receive any public funds from a local mental health authority agree in writing that the following may examine the entity's financial and other relevant records:

- 1) Division of Substance Abuse and Mental Health;
- 2) the local mental health authority director;
- 3) the county treasurer and county or district attorney, or the designated treasurer or legal officer, if required;
- 4) the county legislative body and if a county executive exists the county executive or manager;
- 5) county auditor may examine and audit the entity's financial records; (*Utah Code, Section 17-43-301 (5) (a) and (b))* and that
- 6) the entity will comply with all directives issued by the Department of Human Services and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. (*Utah Code, Section 17-43-301 (3) (b))*

Suggested Audit Procedures:

Review the contract(s) created by the county or mental health authority for mental health services and determine whether the required language is present in the contracts.

b. Compliance Requirements:

The independent auditor shall audit the compensation and expenses of officers and directors of the contract provider to assure the State that no personal benefit is gained by them or any related party from travel or other expenses. The State Division of Mental Health may prescribe specific items to be addressed by the audit, depending upon the particular needs or concerns relating to the local mental health authority or contract provider at issue. (*Utah Code, Section 62A-15-110(2))*

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-6
Page: 4 of 5
Subject: Mental Health Contracts
DHS, Division of Mental Health

Suggested Audit Procedures:

The audit procedures related to the compensation and expenses of officers and directors may include:

- 1) determining whether a policy has been established that requires a mechanism for the approval of compensation for officers and directors;
- 2) determining if the director's salary has been officially approved by the governing board as documented in board minutes;
- 3) reviewing, scanning, or sampling of travel and miscellaneous expenses to ensure that such expenses are reasonable, necessary, and in accordance with the entity's written policies, procedures, and internal controls;
- 4) reviewing related party transactions; and
- 5) performing other audit procedures as may be determined appropriate by the auditor.

c. Compliance Requirements:

The local mental health authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences. (*Utah Code, Section 62A-15-110(3)*)

Suggested Audit Procedures:

Determine whether the local mental health authority (or contract provider) invited all funding partners to its pre- and exit audit conferences.

d. Compliance Requirements:

The local mental health authority shall establish and require contract providers to establish administrative, clinical, personnel, financial, procurement and management policies regarding mental health services and facilities, in accordance with the policies of the State Board of Mental Health, the Division of Mental Health, and state and federal law. (*Utah Code, Section 17-43-301(2)(a)(iv)*)

Suggested Audit Procedures:

Determine whether the mental health authority or contract provider has established written administrative, clinical, personnel, financial, procurement and management policies.

e. Compliance Requirements:

Each agreement for joint substance abuse services shall: (1) designate the treasurer of one of the participating counties or another person as the treasurer for the combined authorities and as custodian of moneys available for the joint services. (2) Authorize the appointed treasurer or other disbursing office appointed by the treasurer to make necessary payments after approval by the designated auditing officer from the moneys in his possession. (3) Provide

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-6
Page: 5 of 5
Subject: Mental Health Contracts
DHS, Division of Mental Health

for the appointment of an independent auditor or one of the county auditors as the designated auditing officer. (4) appoint one of the county or district attorneys as the designated legal officer for the combined authority. (*Utah Code, Section 17-43-301(2)(c) (i-iii)*)

Suggested Audit Procedures:

Review the Interlocal agreements to determine if the above officers have been appointed.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-7
Page: 1 of 4
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

TYPES OF AGREEMENTS: Substance Abuse Contracts

TYPES OF RECIPIENTS: Substance Abuse Authorities - Counties, Interlocal Agencies, Associations of Governments, Nonprofit Corporations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 17-43-201-204, 62A-15-110*

INFORMATION CONTACT: John G. Bell - Phone 538-4072
Division of Substance Abuse and Mental Health

A. PROGRAM OBJECTIVES

The purpose of the Substance Abuse Program is to assist residents of the State of Utah to overcome or avoid problems with the use of illegal drugs or misuse of legal drugs and alcohol. The Division of Substance Abuse assists in this process by negotiating contracts with local substance abuse authorities (County Commissions or County Executives) and administering the State approved funding formula.

B. PROGRAM PROCEDURES

All county legislative bodies in the State of Utah are local substance abuse authorities except in those counties having an executive-council or a council-manager form of local government such as Wasatch County where the county manager is the local authority. (*Utah Code, Section 17-43-201.*) The local substance abuse authorities shall provide substance abuse services to persons within their respective counties. (*Utah Code, Section 17-43-301.*) Two or more county legislative bodies may join to provide substance abuse prevention and treatment services. (*Utah Code, Section 17-43-301 (2) (a).*)

The negotiated contracts with local substance abuse authorities define the types of treatment and prevention services that are required to be provided by the contractor and establish a mechanism for funding part of the cost of such services. The required alcohol, tobacco, and other drug treatment services range from residential services to classes for drivers convicted of driving under the influence of drugs or alcohol. Prevention services offered are based upon a local assessment of the types of these services needed in each area.

This *Audit Guide* focuses on State grants to local governments and nonprofit entities and does not address audit requirements for federal programs. However, State contracts to the local authorities for substance abuse programs usually contain 50% State funds and 50% federal funds. The federal funds received under these contracts are subject to single audit but may or may not be tested depending on whether the entity is required to have a single audit and whether the program was actually selected for testing. This section of the *Audit Guide* is applicable to any local government or nonprofit entity that is required to have an audit in accordance with this *Audit Guide* and expends \$100,000 or more of state funds under a substance abuse contract whether or not the entity's substance abuse programs have been tested during the single audit for the same year. However, some federal compliance tests, if performed during the current year, may satisfy tests required in this section.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-7
Page: 2 of 4
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

State and federal funds appropriated to local substance abuse authorities are to be used only for substance abuse programs and services and in accordance with the contracts established between the auditee and the State Division of Substance Abuse and/or the local substance abuse authority. (*Utah Code, Section 67-3-1(10)(b)(iii & iv)*)

Suggested Audit Procedure:

Review the substance abuse contracts and determine whether the substance abuse funding is being used in accordance with the contracts.

2. ELIGIBILITY

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Local substance abuse authorities must provide matching funds equal to at least 20% of the state funds that it receives to fund services described in the plan. (*Utah Code, Section 17-43-201(4)(k)*)

Suggested Audit Procedure:

Review financial records to determine whether the matching requirement has been met.

4. REPORTING REQUIREMENTS

The auditor is not expected to test required reports.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirements:

Before disbursing any public funds, local mental health authorities shall require that all entities that receive any public funds from a local mental health authority agree in writing that the following may examine the entity's financial and other relevant records:

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-7
Page: 3 of 4
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

- 1) Division of Substance Abuse and Mental Health;
- 2) the local substance abuse authority director;
- 3) the county treasurer and county or district attorney, or the designated treasurer or legal officer, if required;
- 4) the county legislative body and if a county executive exists the county executive or manager;
- 5) county auditor may examine and audit the entity's financial records; (*Utah Code, Section 17-43-201 (5) (a) and (b))* and also agree in writing that
- 6) the entity will comply with all directives issued by the Department of Human Services and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. (*Utah Code, Section 17-43-201 (3) (b))*

Suggested Audit Procedures:

Review the contract(s) created by the county or substance abuse authority for substance abuse services and determine whether the required language is present in the contracts.

b. Compliance Requirements:

The independent auditor shall audit the compensation and expenses of officers and directors of the contract provider to assure the State that no personal benefit is gained by them or any related party from travel or other expenses. The State Division of Substance Abuse may prescribe specific items to be addressed by the audit, depending upon the particular needs or concerns relating to the local substance abuse authority or contract provider at issue. (*Utah Code, Section 62A-15-110(2)*)

Suggested Audit Procedures:

The audit procedures related to the compensation and expenses of officers and directors may include:

- 1) determining whether the director and officer salaries have been officially approved by the entity's governing board as documented in board minutes;
- 2) reviewing the internal controls over travel and other miscellaneous advances or reimbursements;
- 3) reviewing, scanning, or sampling of travel and miscellaneous expenses to ensure that such expenses are reasonable, necessary, and in accordance with the entity's written policies, procedures, and internal controls;
- 4) reviewing related party transactions; and
- 5) performing other audit procedures as may be determined appropriate by the auditor.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-7
Page: 4 of 4
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

c. Compliance Requirements:

The local substance abuse authority or its contract provider shall invite and include all funding partners in its auditor's pre- and exit conferences. (*Utah Code, Section 62A-15-110(3)*)

Suggested Audit Procedures:

Determine whether the local substance abuse authority (or contract provider) invited all funding partners to its pre- and exit audit conferences.

d. Compliance Requirements:

The local substance abuse authority shall establish and require contract providers to establish administrative, clinical, personnel, procurement, financial, and management policies regarding substance abuse services and facilities, in accordance with the policies of the State Board of Substance Abuse, and state and federal law. (*Utah Code, Section 17-43-201(4)(f)*)

Suggested Audit Procedures:

Determine whether the substance abuse authority or contract provider has established and follows written administrative, clinical, personnel, procurement, financial, and management policies.

e. Compliance Requirements:

Each agreement for joint substance abuse services shall: (1) designate the treasurer of one of the participating counties or another person as the treasurer for the combined authorities and as custodian of moneys available for the joint services; (2) authorize the appointed treasurer or other disbursing office appointed by the treasurer to make necessary payments after approval by the designated auditing officer from the moneys in his possession; (3) provide for the appointment of an independent auditor or one of the county auditors as the designated auditing officer; (4) provide for the appointment of one of the county or district attorneys as the designated legal officer for the combined authorities. (*Utah Code, Section 17-43-201(2)(c) (i-iii)*)

Suggested Audit Procedures:

Review the Interlocal agreements to determine if the above officers have been appointed.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Department of Transportation (DOT):

Mineral Lease Distribution to County Special Service Districts	DOT-1
Airport Improvements	DOT-2
Sidewalk Construction	DOT-3

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-1
Page: 1 of 2
Subject: Mineral Lease Distribution to County Special Service Districts
DOT, Administration

TYPES OF AGREEMENTS: Appropriation/Formula as stated in the
Utah Code 59-21-2-2(2)(f)

TYPES OF RECIPIENTS: County Single Purpose Special Service District

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code Title 59*

INFORMATION CONTACT: Utah Department of Trans. – Program Development
Brett Hadley – 801-965-4366
Cell 870-0285

A. PROGRAM OBJECTIVES:

The objective of this distribution is to provide financial aid to areas of communities impacted by the development of natural resources on public lands. The funds are used to construct, repair and maintain roads or other purposes authorized by law.

B. PROGRAM PROCEDURES:

Twenty-five percent of all deposits made to the mineral lease account are to be given to the Utah Department of Transportation to be distributed by the Transportation Commission to county special service districts established for the purpose of constructing, repairing, and maintaining roads or for other purposes authorized by law. Beginning July 1, 1998, the allocation will increase from 25% to 40% over a three year period. (30% FY 1999, 35% FY 2000, 40% FY 2001 and thereafter)

Utah Code Section 17A-2-1304(1)(a) states “A county or a municipality may establish a service district for the purpose of providing within the area of the service district any of the following services or any combination of them: water, sewerage, drainage, flood control, garbage, hospital, transportation, recreation, fire protection, or street lighting. Snow removal services may be provided in service districts established under this section...”

Funds are allocated to the special service districts based on the amount of mineral lease royalties each county generates. Each county receives 25% of all deposits made to the state mineral lease account. Funds are allocated on a quarterly basis. Special Service Districts have been established through coordination with the Association of Counties.

The law designated the Transportation Commission as a pass-through agency only. It did not specify administrative or regulatory responsibilities.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-1
Page: 2 of 2
Subject: Mineral Lease Distribution to County Special Service Districts
DOT, Administration

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The types of services allowed are those which comply with the provisions of *Utah Code* Sections 17A-2-1301 to 17A-2-1332 dealing with the establishment of Special Service Districts.

Suggested Audit Procedure:

Determine that the funds were spent by Special Service Districts established in accordance with *Utah Code* Sections 17A-2-1301 to 17A-2-1332.

2. ELIGIBILITY

Compliance Requirement:

For a county to be eligible for these funds it must have generated mineral lease money and must have an established single purpose special service district.

Suggested Audit Procedure:

Determine that the county has established in a single purpose special service district in accordance with *Utah Code* Section 17A-2-1301 to 17A-2-1332..

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

None.

4. REPORTING REQUIREMENTS

None.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 1 of 2
Subject: Airport Improvements
(DOT, Administration)

TYPES OF AGREEMENTS: Appropriation/Cooperative Agreements

TYPES OF RECIPIENTS: Cities
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Title 72-10-3xx
Contract provisions of the Cooperative Agreement.

INFORMATION CONTACT: Utah Department of Trans. - Aeronautical Operations
Division. Patrick Morley - 715-2260 135 N. 2400 W.,
SLC, UT 84116

A. PROGRAM OBJECTIVES:

To provide financial assistance by grant or loan or both to any public agency in the planning, acquisition, construction, improvement, maintenance or operation of an airport out of appropriations made by the legislature for such purposes. (*Utah Code* 72-10-304).

B. PROGRAM PROCEDURES:

Funds are provided to the agency after the grant application and cooperative agreement have been approved by the UDOT Division of Aeronautics, or if over \$40,000, by the Transportation Commission.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The funds need to be expended on the planning, acquisition, construction, improvement, maintenance or operation of an airport owned or controlled by a public agency as reflected in the approved plans and specifications. The funds can also be used in connection with federal financial-aid for the same purpose. (*Utah Code* 72-10-304).

Suggested Audit Procedures:

Test expenditures and related records to ensure funds are expended only for authorized projects.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 2 of 2
Subject: Airport Improvements
(DOT, Administration)

2. ELIGIBILITY

Compliance Requirement:

The auditor is not expected to test the eligibility of the airport to receive state funding.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The cooperative agreement/contract specifies the level of matching funds required from the local public agency.

Suggested Audit Procedures:

Review the cooperative agreement and determine the matching requirement. Review the financial records and determine the amount of the matching funds provided.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The public agency expending the funds is to provide supporting documentation for the expenses incurred and any under-expenditure is to be returned to the State.

Suggested Audit Procedures:

Compare the local public agency's total expenditures to the funding provided by the State.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The State Aeronautical Operations Division will approve, in writing, the project plans and specifications before the start of construction. (Cooperative Agreement/contract).

Suggested Audit Procedures:

Review the project files to determine that the State Aeronautical Division approved the project plans and specifications before construction started.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-3
Page: 1 of 5
Subject: Sidewalk Construction
(DOT, Administration)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Cities
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 72-8*
UDOT Pedestrian Safety Facilities Program
General Guidelines
Annual Appropriations

INFORMATION CONTACT: Utah Department of Trans. – Systems Planning &
Programming
Kathy Starks, 801-965-4364

A. PROGRAM OBJECTIVES:

The Legislative intent of this program is to use funds appropriated for pedestrian safety projects to correct pedestrian hazards on State highways.

B. PROGRAM PROCEDURES:

The Legislature annually appropriates the funds which are to be used in the Safe Sidewalk Construction Program. The Utah Department of Transportation (UDOT) allocates the funds of the counties based upon population, student enrollment and pedestrian accident experience. The county allocations are then combined into UDOT regions and are distributed to each of the four regions. The UDOT Region District Sidewalk Program Coordinators coordinate with the cities and counties in advising them of fund availability and assisting them with application requests. The local governmental units are encouraged to participate in the project costs. The annual Legislative appropriations can specify the amount of local participation. The UDOT Region District Sidewalk Program Coordinators review the plans, specifications and cost estimates of proposed projects; prioritize the projects in their region based upon the governing criteria. The prioritized region lists are combined into the Department's proposed safe sidewalk program and this program is submitted to the Transportation Commission for review and approval. The Region District Sidewalk Program Coordinators prepare the cooperative agreements on approved projects. UDOT Region District Sidewalk Program Coordinators monitor the contract performance by the local agencies including the project certifications and return of excess funds at project completion of where work is not performed in an expeditious manner.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-3
Page: 2 of 5
Subject: Sidewalk Construction
(DOT, Administration)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The local entities are to submit their requests for funding for projects utilizing the safe sidewalk funds based upon the criteria set forth in *Utah Code* Section 72-8-102 thru 107. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Determine that the criteria in *Utah Code* Annotated Section 72-8-102 thru 107 were used in developing the local governments' project request.

2. ELIGIBILITY

Compliance Requirement:

The auditor is not required to test for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

a. Compliance Requirement:

The Legislative intent is to encourage local authorities to participate in the construction of pedestrian safety devices. Yearly legislation can designate the matching requirements. For the fiscal year beginning July 1, 1998 the required matching funds are to be on a 75%/25% matching basis. (H.B. 327).

Suggested Audit Procedure:

Determine that the local governmental entity has provided its required match.

b. Compliance Requirement:

Local governments are to use their allocation of Sidewalk Safety Funds in two years. If the funds aren't used in this time period the funds will then be available for other governmental entities which are prepared to use the resources (UDOT Pedestrian Safety Facilities Program General Guidelines) (Also H.B. #327 – 1998 Legislature)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-3
Page: 3 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedure:

Determine whether the entity has spent all its sidewalk funds within the two years. If not, determine whether the funds were properly returned to the State.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The local governmental agency is required to furnish a statement upon completion of the project for which a grant was made certifying the amount of State funds expended for the project and that the project was completed in accordance with the standards and specifications. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Verify that the certifications have been submitted as required. Verify the certified costs to supporting documents.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirement:

All construction must be barrier free to wheelchairs at crosswalks and intersections. (*Utah Code 72-8-102 thru 107*)

Suggested Audit Procedures:

Verify that plans and specifications incorporate barrier-free designs for wheelchairs at crosswalks and intersections.

b. Compliance Requirement:

UDOT has developed small quantity specifications which may be used in constructing curbs, gutters, and sidewalks. A local government may use UDOT's specifications or it may use its own standards and specifications with approval of the UDOT Region District Sidewalk Program Coordinators. The Region District Sidewalk Program Coordinator will not approve any standards and specifications that don't provide at least the minimum requirements. (UDOT Pedestrian Safety Facilities Program General Guidelines)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-3
Page: 4 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedures:

Determine that the UDOT Standards and Specifications were used or that UDOT approved the standards and specifications used.

c. Compliance Requirement:

For donated land (right-of-way), a full disclosure of the value of the property is to be made to the property owner. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Test right-of-way project files to determine if the property owner who donated the right-of-way was given a statement disclosing the value of the property.

d. Compliance Requirement:

Any safe sidewalk funds received by the local government which are in excess of the amounts expended on the approved project are to be returned to UDOT. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Determine that project funds received by the local government in excess of the certified costs have been returned to UDOT.

e. Compliance Requirement:

If any local agency grants an exemption of deferral agreement for the construction of sidewalks, curbs, gutters, or pedestrian safety devices which are normally required, the area for which the exemption of deferral agreement applies shall not be eligible to utilize funds permitted to be expended by this act. (*Utah Code 72-8-107*)

Suggested Audit Procedure:

Determine that deferrals or exemptions have not been granted for the areas where sidewalk funds were expended under this act.

f. Compliance Requirement:

It is the intent of the Legislature that the funds provided by this act be deemed additional to funds normally used by the local agencies for sidewalk construction and shall not be used in substitution for local sidewalk construction funds. (*Utah Code 72-8-107*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-3
Page: 5 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedures:

Verify that the funds provided by this act are not substituted for the agency's normal sidewalk funds.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Appendix A: Illustrative Examples of Independent Auditor's Report on State Legal Compliance:

Example 1: Immaterial Instances of Noncompliance Noted	App A-1
Example 2: No Instances of Noncompliance Noted	App A-2
Example 3: No Major State Grants Received by Entity	App A-3
Example 4: No State Grants Received by Entity	App A-4
Example 5: Nonprofit - Immaterial Instances of Noncompliance	App A-5
Example 6: Standard Report on the General Purpose Fin. Statement	App A-6
Example 7: Nonprofits- Provider Contract as a State Major Program	App A-7

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-1
Page: 1 of 2
Subject: Example 1: Illustrative Independent Auditor's Report on State Legal Compliance Immaterial Instances of Noncompliance Noted

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Utah, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. As part of our audit, we have audited the City of Example's compliance with the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; special tests and provisions applicable to each of its major State assistance programs as required by the State of Utah Legal Compliance Audit Guide for the year ended June 30, 20XX. The City received the following major assistance programs from the State of Utah:

Community Impact Grants (Dept. of Community and Economic Development)
B & C Road Funds (Department of Transportation)
Critical Needs Housing (Dept. of Community and Economic Development)
Liquor Law Enforcement (State Tax Commission)

The City also received the following nonmajor grants which are not required to be audited for specific compliance requirements: (However, these programs were subject to testwork as part of the audit of the City of Example's financial statements.)

Fine Arts Facilities (Dept. of Community and Economic Development)
Sidewalk Construction (Department of Transportation)

Our audit also included testwork on the City's compliance with the following general compliance requirements identified in the State of Utah Legal Compliance Audit Guide:

Public Debt	Special Districts
Cash Management	Other General Issues
Purchasing Requirements	Uniform Building Code Standards
Budgetary Compliance	Statehood Centennial Grants
Truth in Taxation & Property	Statement of Taxes Charged,
Tax Limitations	Collected & Disbursed
Liquor Law Enforcement	Assessing and Collecting
Justice Court	of Property Taxes
B & C Road Funds	Transient Room Tax
	Impact Fees

The management of the City of Example is responsible for the City's compliance with all compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining,

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-1
Page: 2 of 2
Subject: Example 1: Illustrative Independent Auditor's Report on State Legal Compliance
Immaterial Instances of Noncompliance Noted

on a test basis, evidence about the City's compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed immaterial instances of noncompliance with requirements referred to above, which are described in the accompanying management letter. We considered these instances of noncompliance in forming our opinion on compliance, which is expressed in the following paragraph.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above and the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; and special tests and provisions that are applicable to each of its major State assistance programs for the year ended June 30, 20XX.

[Signature]
[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-2
Page: 1 of 2
Subject: Example 2: Illustrative Independent Auditor's Report on State Legal Compliance
No instances of Noncompliance Noted

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Utah, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. As part of our audit, we have audited the City of Example's compliance with the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; special tests and provisions applicable to each of its major State assistance programs as required by the State of Utah Legal Compliance Audit Guide for the year ended June 30, 20XX. The City received the following major assistance programs from the State of Utah:

Community Impact Grant (Dept. of Community and Economic Development)
B & C Road Funds (Department of Transportation)
Critical Needs Housing (Dept. of Community and Economic Development)
Liquor Law Enforcement (State Tax Commission)

The City also received the following nonmajor grants which are not required to be audited for specific compliance requirements: (However, these programs were subject to testwork as part of the audit of the City of Example's financial statements.)

Fine Arts Facilities (Dept. of Community and Economic Development)
Sidewalk Construction (Department of Transportation)

Our audit also included testwork on the City's compliance with the following general compliance requirements identified in the State of Utah Legal Compliance Audit Guide:

Public Debt	Special Districts
Cash Management	Other General Issues
Purchasing Requirements	Uniform Building Code Standards
Budgetary Compliance	Statehood Centennial Grants
Truth in Taxation & Property	Statement of Taxes Charged,
Tax Limitations	Collected & Disbursed
Liquor Law Enforcement	Assessing and Collecting
Justice Court	of Property Taxes
B & C Road Funds	Transient Room Tax
	Impact Fees

The management of the City of Example is responsible for the City's compliance with all compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-2
Page: 2 of 2
Subject: Example 2: Illustrative Independent Auditor's Report on State Legal Compliance
No instances of Noncompliance Noted

Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed no instances of noncompliance with the requirements referred to above.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above and the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; and special tests and provisions that are applicable to each of its major State assistance programs for the year ended June 30, 20XX.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-3
Page: 1 of 2
Subject: Example 3: Illustrative Independent Auditor's Report on State Legal Compliance
No Major State Grants Received by Entity

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Utah, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. The City received the following nonmajor grants which are not required to be audited for specific compliance requirements: (However, these programs were subject to testwork as part of the audit of the City of Example's financial statements.)

Fine Arts Facilities (Department of Community and Economic Development)
Sidewalk Construction (Department of Transportation)

Our audit included testwork on the City's compliance with the following general compliance requirements identified in the State of Utah Legal Compliance Audit Guide:

Public Debt	Special Districts
Cash Management	Other General Issues
Purchasing Requirements	Uniform Building Code Standards
Budgetary Compliance	Statehood Centennial Grants
Truth in Taxation & Property	Statement of Taxes Charged,
Tax Limitations	Collected & Disbursed
Liquor Law Enforcement	Assessing and Collecting
Justice Court	of Property Taxes
B & C Road Funds	Transient Room Tax
	Impact Fees

The City did not receive any major State grants during the year ended June 30, 20XX.

The management of the City of Example is responsible for the City's compliance with all compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed immaterial instances of noncompliance with requirements referred to above, which are described in the accompanying management letter. We considered these instances of noncompliance in forming our opinion on compliance, which is expressed in the following paragraph.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-3
Page: 2 of 2
Subject: Example 3: Illustrative Independent Auditor's Report on State Legal Compliance
No Major State Grants Received by Entity

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above for the year ended June 30, 20XX.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-4
Page: 1 of 1
Subject: Example 4: Illustrative Independent Auditor's Report on State Legal Compliance
No State Grants Received by Entity

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Utah, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. Our audit included testwork on the City's compliance with the following general compliance requirements identified in the State of Utah Legal Compliance Audit Guide:

Public Debt	Special Districts
Cash Management	Other General Issues
Purchasing Requirements	Uniform Building Code Standards
Budgetary Compliance	Statehood Centennial Grants
Truth in Taxation & Property	Statement of Taxes Charged,
Tax Limitations	Collected & Disbursed
Liquor Law Enforcement	Assessing and Collecting
Justice Court	of Property Taxes
B & C Road Funds	Transient Room Tax
	Impact Fees

The City did not receive any major or nonmajor State grants during the year ended June 30, 20XX.

The management of the City of Example is responsible for the City's compliance with all compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed immaterial instances of noncompliance with the requirements referred to above, which are described in the accompanying management letter. We considered these instances of noncompliance in forming our opinion on compliance, which is expressed in the following paragraph.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above for the year ended June 30, 20XX.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-5
Page: 1 of 1
Subject: Example 5: Illustrative Independent Auditor's Report on State Legal Compliance
Nonprofit Entity - Immaterial Instances of Noncompliance

We have audited the financial statements of ABC Family Services, a nonprofit corporation, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. As part of our audit, we have audited ABC Family Services' compliance with the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; special tests and provisions applicable to its major State assistance program as required by the State of Utah Legal Compliance Audit Guide for the year ended June 30, 20XX. ABC Family Services received the following major assistance program from the State of Utah:

School Lunch (State Office of Education)

ABC Family Services also received the following nonmajor grant which is not required to be audited for specific compliance requirements: (However, this program was subject to testwork as part of the audit of the ABC Family Services' financial statements.)

Children's Trust Account (Department of Human Services)

The management of ABC Family Service is responsible for its compliance with the compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining, on a test basis, evidence about ABC Family Services' compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed immaterial instances of noncompliance with the requirements referred to above, which are described in the accompanying management letter. We considered these instances of noncompliance in forming our opinion on compliance, which is expressed in the following paragraph.

In our opinion, ABC Family Services complied, in all material respects, with the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; and special tests and provisions that are applicable to its major State assistance program for the year ended June 30, 20XX.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-6
Page: 1 of 2
Subject: Example 6: Standard Report on the General Purpose Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Any State, as of and for the year ended June 30, 20XX, which collectively comprise the City's basic financial statements as listed in the table of contents. These financial statements are the responsibility of City of Example, Any State's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the general-purpose financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the general-purpose financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall general-purpose financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Example, Any State, as of June 30, 20XX, and the respective changes in financial position and cash flows, and where applicable, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated (date of report) on our consideration of (entity's name)'s internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The (*identify accompanying required supplementary information, such as management's discussion and analysis and budgetary comparison information*) on pages XX through XX and XX through XX are not a required part of the basic financial statements but are supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City of Example, Any State's basic financial statements. The (*identify accompanying supplementary information, such as the introductory section, combining and individual major fund financial statements, and statistical tables*) are presented for purposes of additional analysis and are not a required part of the basic financial statements. The (*identify relevant supplementary information, such as the combining and individual nonmajor fund financial statement*) have been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in all

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-6
Page: 2 of 2
Subject: Example 6: Standard Report on the General Purpose Financial Statements

material respects in relation to the basic financial statements taken as a whole. The (*identify relevant supplementary information, such as the introductory section and statistical tables*) have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-7
Page: 1 of 1
Subject: Example 7: Illustrative Independent Auditor's Report on State Legal Compliance Nonprofit Entity – Provider Contract as a State Major Program with Immaterial Instances of Noncompliance

We have audited the financial statements of ABC Family Services, a nonprofit corporation, for the year ended June 30, 20XX, and have issued our report thereon dated September 21, 20XX. As part of our audit, we have audited ABC Family Services' compliance with the requirements of the provider contract determined to be a major State assistance program as required by the State of Utah Legal Compliance Audit Guide for the year ended June 30, 20XX. ABC Family Services received the following major assistance program from the State of Utah:

(List Provider Contract)

The management of ABC Family Service is responsible for its compliance with the compliance requirements identified above. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with the requirements referred to above occurred. An audit includes examining, on a test basis, evidence about ABC Family Services' compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

The results of our audit procedures disclosed immaterial instances of noncompliance with the requirements referred to above, which are described in the accompanying management letter. We considered these instances of noncompliance in forming our opinion on compliance, which is expressed in the following paragraph.

In our opinion, ABC Family Services complied, in all material respects, with the requirements governing types of services allowed or unallowed; eligibility; matching, level of effort, or earmarking; reporting; and special tests and provisions that are applicable to its major State assistance program for the year ended June 30, 20XX.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Appendix B: Single Audit Issues:

Subrecipient and Vendor Determinations

App B-1

Flowchart of Single Audit Requirements

App B-2

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP B-1
Page: 1 of 2
Subject: Subrecipient and Vendor Determinations

SUBRECIPIENT AND VENDOR DETERMINATIONS

An entity receiving federal funds may be considered a recipient, subrecipient or a vendor/provider (hereafter referred to as a vendor). Recipients and subrecipients of federal awards are subject to audit under the Single Audit Act and OMB Circular A-133 if their annual expenditures of federal awards are \$500,000 or more. Federal funds received for goods or services provided as a vendor are not considered federal awards and are not subject to single audit. There may be circumstances, however, when vendor records may need to be reviewed to determine program compliance. The following guidance, taken from OMB Circular A-133, '_.210, gives further guidance on distinguishing between a subrecipient and a vendor.

A. Federal Award:

Characteristics indicative of a Federal award received by a subrecipient when the organization:

1. Determines who is eligible to receive what Federal financial assistance;
2. Has its performance measured against whether the objectives of the Federal program are met;
3. Has responsibility for programmatic decision making;
4. Has responsibility for adherence to applicable Federal program compliance requirements; and
5. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

B. Payment for Goods and Services:

Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

1. Provides the goods and services within normal business operations;
2. Provides similar goods or services to many different purchasers;
3. Operates in a competitive environment;
4. Provides goods or services that are ancillary to the operation of the Federal program; and
5. Is not subject to compliance requirements of the Federal program.

C. Use of Judgment in Making Determination:

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

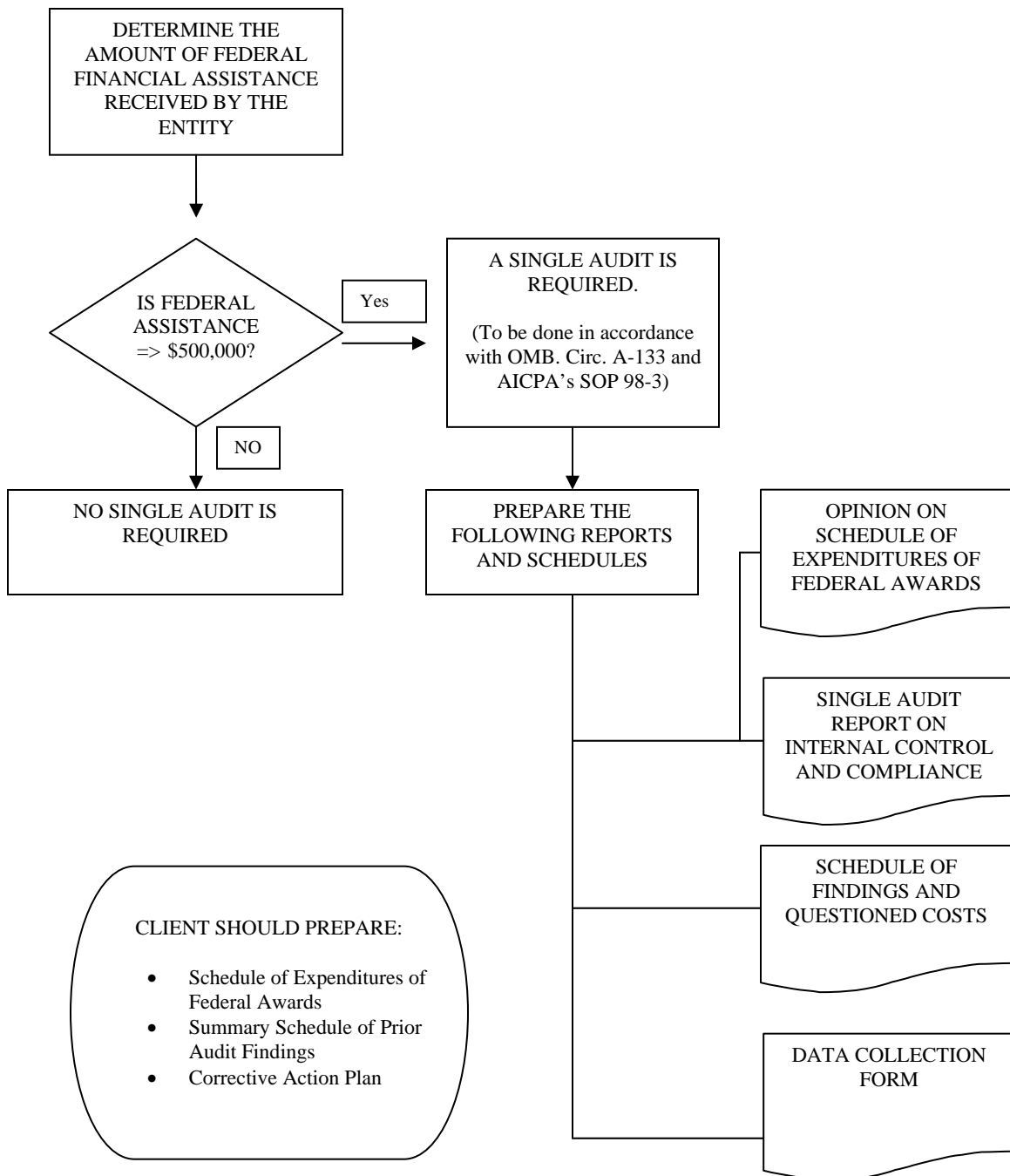
Reference: APP B-1
Page: 2 of 2
Subject: Subrecipient and Vendor Determinations

D. Compliance Responsibility for Vendors:

In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP B-2
Page: 1 of 1
Subject: Flowchart of Single Audit Requirements



STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Appendix C: Miscellaneous:

Table of Testwork and Reports Required	App C-1
Flowchart of Testwork and Reports Required - Governmental Units	App C-2
Flowchart of Testwork and Reports Required - Nonprofit Corporations	App C-3
Rules - Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	App C-4
School District Fall Enrollment and Student Membership Reporting	App C-5
Adult Education Agreed-Upon Procedures Engagement and Adult Education Summary Report	App C-6

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-1
Page: 1 of 1
Subject: Table of Testwork and Reports Required

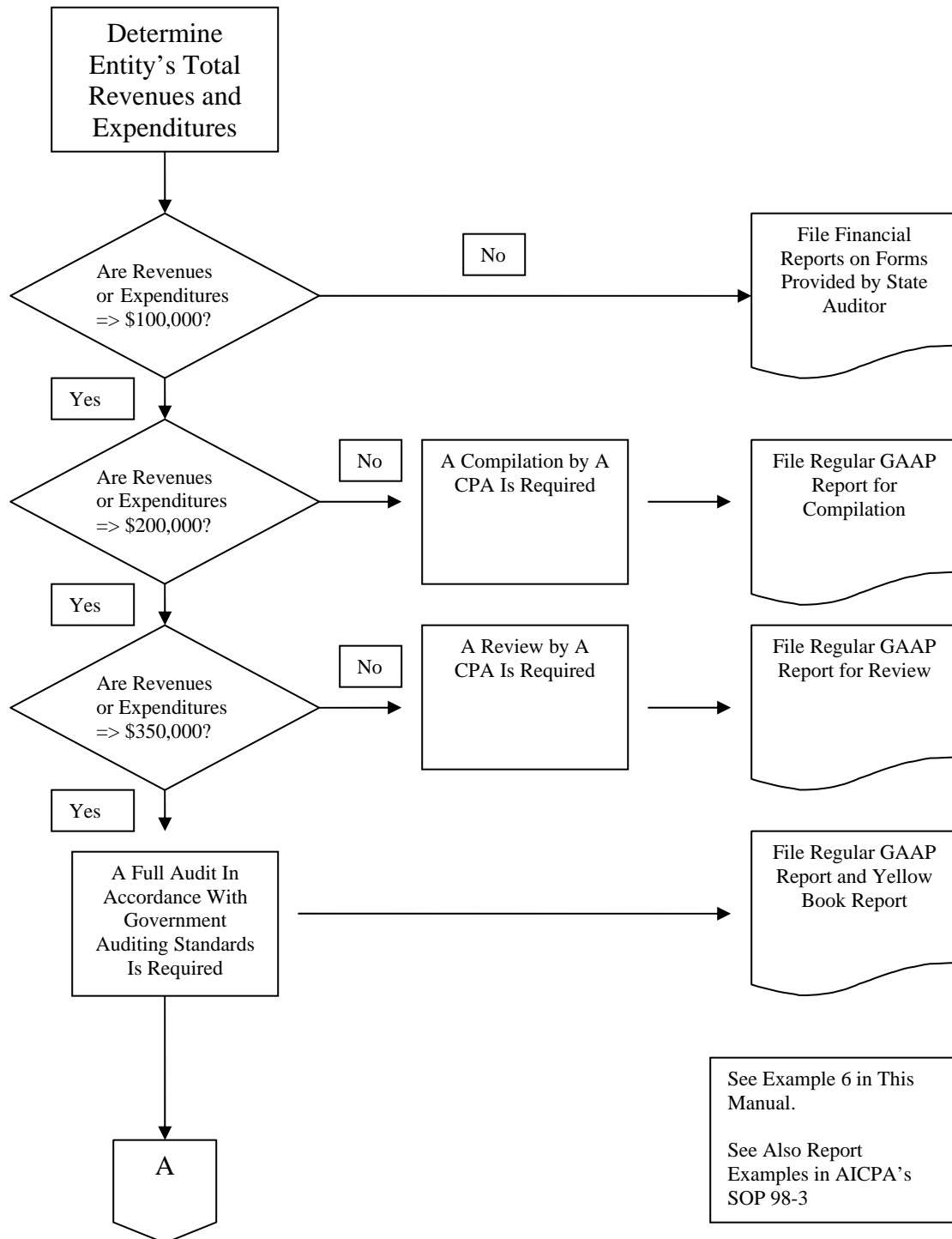
	DESCRIPTION	1	2	3	4	5	6	7	8
A	Total revenues and expenditures are less than \$100,000			X					
B	Total revenues and expenditures are greater than \$100,000 but less than \$200,000 - No major State grants are received				X				
C	Total revenues and expenditures are greater than \$100,000 but less than \$200,000 - One major State grant is received				X				
D	Total revenues and expenditures are greater than \$200,000 but less than \$350,000 - No major State grant is received					X			
E	Total revenues and expenditures are greater than \$200,000 but less than \$350,000 - One major State grant is received					X			
F	Total revenues or expenditures are greater than \$350,000 - No State grants are received	X					X	X	X
G	Total revenues or expenditures are greater than \$350,000 - One or more State grants are received, but all are nonmajor grants	X					X	X	X
H	Total revenues or expenditures are greater than \$350,000 - One or more State grants are received, including both major and nonmajor grants	X	X				X	X	X

COLUMN DESCRIPTIONS:

1. Testwork on general compliance is required. (Only required for governmental entities - General compliance requirements do not apply to nonprofit organizations.)
2. Testwork on specific compliance is required.
3. File financial reports on forms provided by the State Auditor's Office.
4. A compilation performed by a Certified Public Accountant must be filed with the State Auditor's Office.
5. A review performed by a Certified Public Accountant must be filed with the State Auditor's Office.
6. An audit of the entity's financial statements must be performed by a Certified Public Accountant licensed to practice in Utah. A copy of the audit report must be filed with the State Auditor's Office.
7. A State compliance report is required to be submitted with the financial report. A copy of the auditor's management letter is also required if there are material weaknesses in internal controls or there are any State compliance issues noted during the audit (regardless of materiality). (Note, however, that a State compliance report is not required of nonprofit organizations that do not have major state grants.)
8. A report on compliance and on internal control over financial reporting based on an audit of financial statements performed in accordance with *Government Auditing Standards* is required to be submitted with the financial report.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-2
Page: 1 of 2
Subject: Flowchart of Testwork and Reports Required – Governmental Units

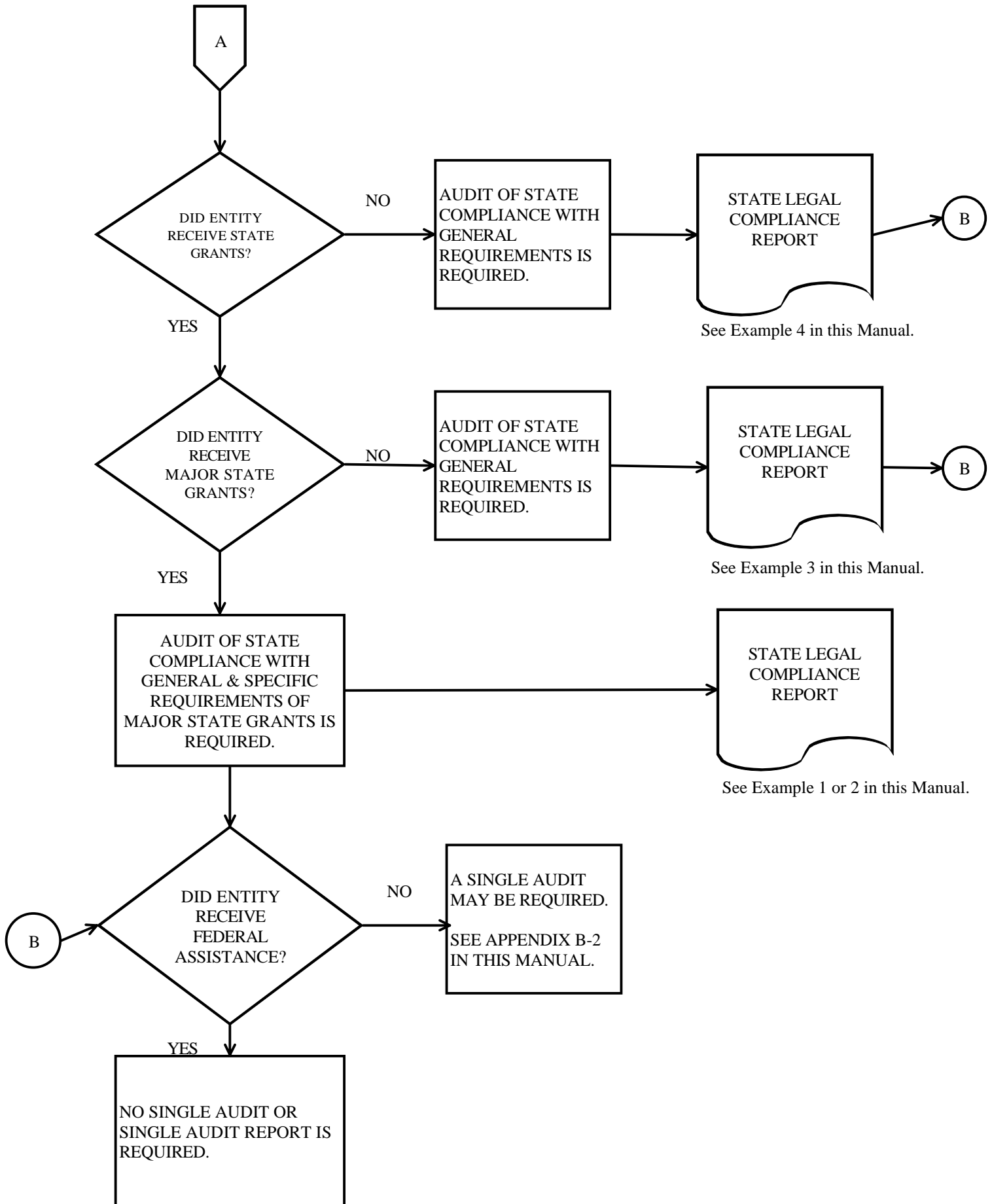


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Reference: APP C-2

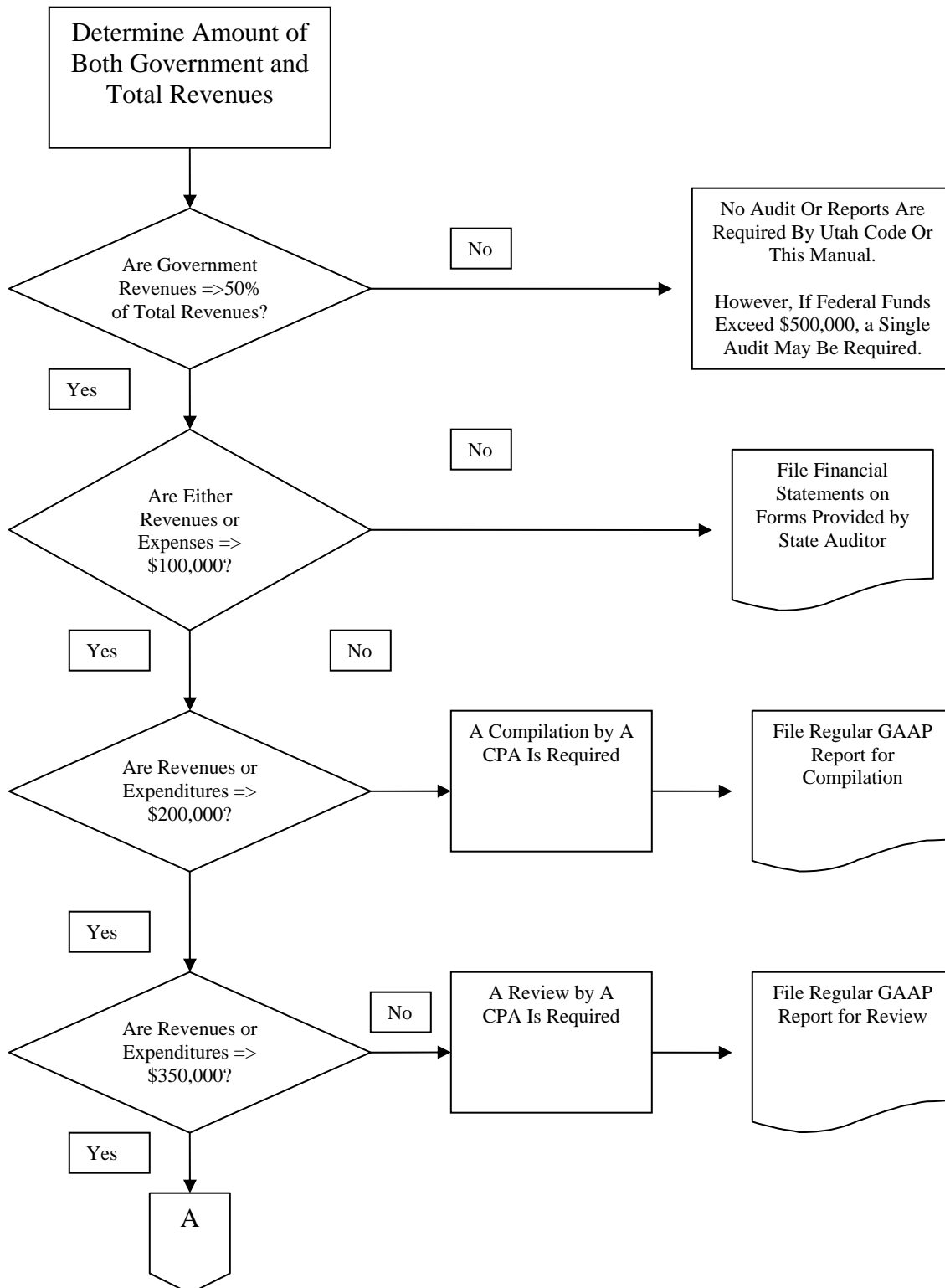
Page: 2 of 2

Subject: Flowchart of Testwork and Reports Required - Governmental Units

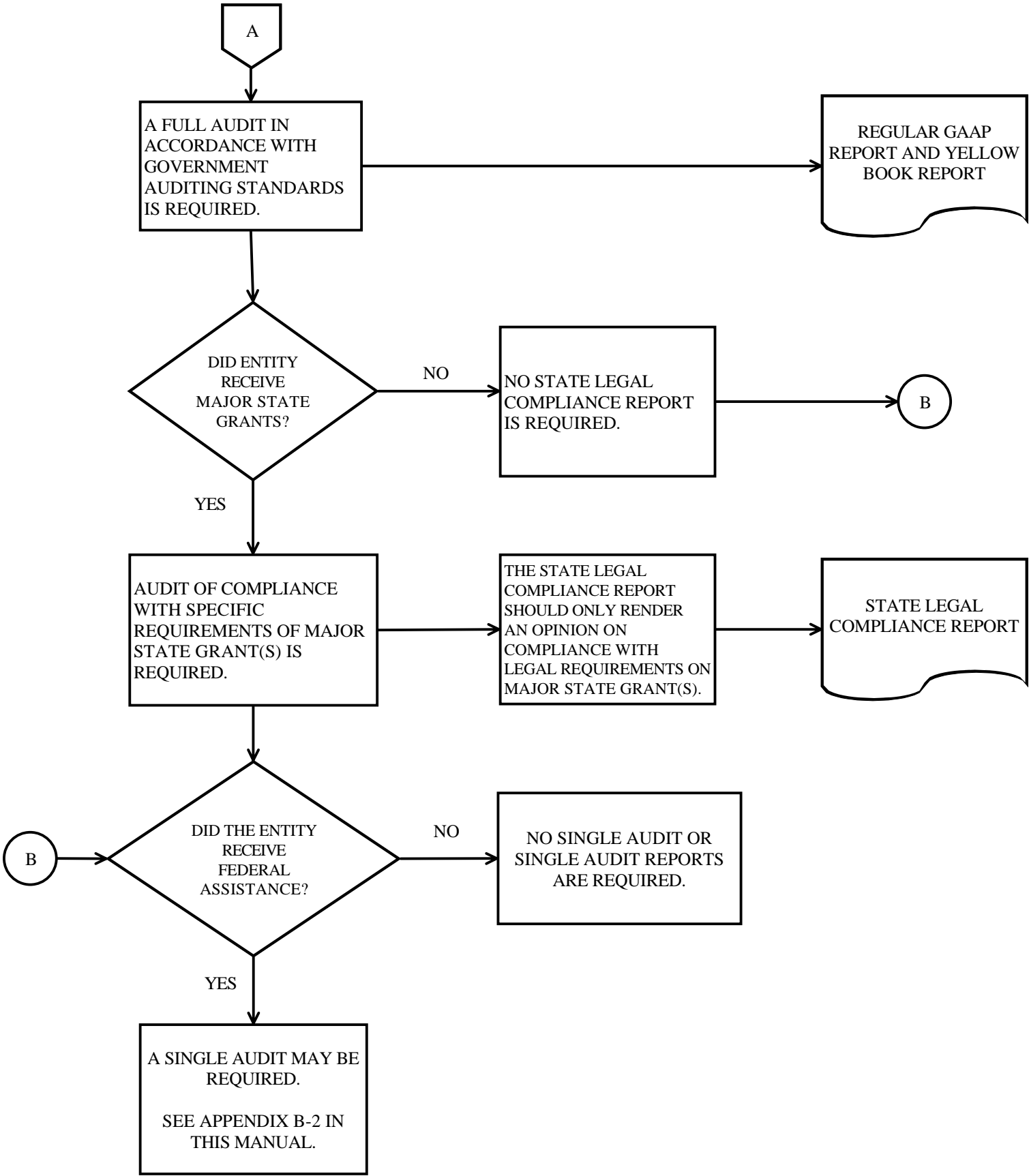


STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-3
Page: 1 of 2
Subject: Flowchart of Testwork and Reports Required – Nonprofit Corporations



Reference: APP C-3
Page: 2 of 2
Subject: Flowchart of Testwork and Reports Required - Nonprofit Corporations



STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-4
Page: 1 of 2
Subject: Rules R123-5 – Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations

R123-5-1. Authority.

1. As required by Section 51-2a-301, this rule provides the guidelines, qualifications criteria, and procurement procedures for audits required to be made by Section 51-2a-201.

R123-5-2. Definitions.

1. "Auditor" means a certified public accountant licensed to conduct audits in the state and includes any certified public accounting firm as defined by Section 58-26a-102.
2. "Political subdivision" means all cities, counties, school districts, special districts, interlocal organizations, and any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes.
3. "Nonprofit organization" means any corporation created under Chapter 16-6a.

R123-5-3. Audit Standards and Requirements.

1. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with Government Auditing Standards most recently published and issued by the Comptroller General of the United States.
2. The State Auditor shall adopt and maintain a legal compliance audit guide containing those fiscal laws and compliance requirements for state funds distributed to, and expended by, political subdivisions and non-profit organizations. This legal compliance audit guide may specify:
 - a. which grants and programs shall be considered major grants, and the compliance requirements which must be tested by the auditor,
 - b. the general compliance requirements applicable to all political subdivisions, and the audit requirements applicable to general compliance requirements,
 - c. the format for the auditor's statement expressing positive assurance with state fiscal laws identified by the State Auditor, and
 - d. those items related to internal controls and other financial issues which shall be included in the auditor's letter to management that must be filed with the audited financial statements.
3. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with the legal compliance audit guide maintained by the State Auditor.

R123-5-4. Audit Procurement.

The decision to retain an entity's auditor rests with the governing body of the entity. However, the auditor performing the audit must meet the peer review and continuing education requirements of Government Auditing Standards issued by the Comptroller General of the United States. If the governing body rebids the audit of its financial statements, it shall comply with the following audit procurement requirements:

- a. Proposals will be obtained from any interested and qualified certified public accountant licensed to perform audits in the state, which may include the auditor currently performing the entity's

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-4
Page: 2 of 2
Subject: Rules R123-5 – Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations

- audit. Notice may be given to potential auditors either through invitation or by notice published in a newspaper of general circulation. To promote competition it is recommended that at least three auditors be invited to participate in bidding for the audit.
- b. The entity shall distribute a "request for proposal" to all auditors who meet the qualification criteria set by the procuring organization interested in bidding for the audit. As a minimum, the request for proposal shall contain the following:
- (i) the name and address of the entity requesting the audit and its designated contact person,
 - (ii) the entity to be audited, the scope of services to be provided, and specific reports, etc. to be delivered,
 - (iii) the period to be audited,
 - (iv) the format in which the proposals should be prepared,
 - (v) the date and time proposals are due, and
 - (vi) the criteria to be used in evaluating the bid.
- c. The entity may select the auditor or audit firm that the governing body desires to perform its audit and may reject any bid.

R123-5-5. Responsibility for Audit Quality.

1. The governing body of each political subdivision is responsible to ensure that the political subdivision obtains a quality audit of its financial records.
2. The governing body may appoint an audit committee with the responsibility of making recommendations to the governing body for selection of an auditor, ensuring that the auditor meets qualification requirements, and ensuring that the auditor complies with professional standards.
3. If the governing body appoints a separate audit committee, then the governing body shall review the recommendations of the audit committee and make the selection of the auditor.
4. The audit committee will report its assessment of the auditor's compliance with professional standards to the governing body.
5. The auditor shall report the results of the audit to the governing body.
6. The governing body shall respond to the specific recommendations included in the auditor's letter to management. This response shall be remitted with the audited financial statements to the state auditor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 1 of 14
Subject: School District Fall Enrollment and Student Membership Reporting
SOE, Division of Agency Services, School Finance & Statistics Section

Source of Regulations: Utah State Board of Education Rule R277-419 Pupil Accounting

Information Contact: Emily Eyre (801-538-7671)
emily.eyre@schools.utah.gov

Effective Date: 1 July 2007

NOTE: In the following text “school district” or “district” also means “charter school.”

1. BACKGROUND

1.1. Minimum School Program (MSP) funds are allocated to school districts by the School Finance and Statistics Section of the Utah State Office of Education (USOE or, sometimes in this document, SOE).

1.2. Compliance requirements related to the MSP funds are addressed in section SOE-1 of this *Compliance Audit Guide*.

1.3. Allocations are based on formulas provided by the Minimum School Finance Act, most of which rely on prior year average daily membership (ADM), which is derived from aggregate membership, plus a growth factor, which is derived from fall enrollment counts.

1.4. Aggregate membership and enrollment records are submitted for each student annually by school districts to the USOE as electronic text files via the Data Clearinghouse at Year End for the prior year (by July 15) and in the Fall as of the first school day in October (by October 15), respectively.

1.5. The USOE generates school and district level summary reports out of the individual student detail data in the Clearinghouse files. These summary reports — in particular, the aggregate membership section of the *Year End Clearinghouse Report* and the enrollment section of the *Fall Clearinghouse Report* — serve as statements of assertions by the district.

1.6. Traditionally, independent accountants have also been asked to examine records on dropouts. However, users of dropout data have expressed increasing interest in knowing whether students who leave school early and are not classified as dropouts are truly “transfer” students. The emphasis in these agreed upon procedures has accordingly shifted to focus on whether adequate documentation exists locally to support district claims regarding the exit status of such students.

1.7. The USOE requires all school districts to contract with public accounting firms to perform certain agreed-upon procedures regarding this data. The procedures to be performed, as determined by the USOE, are described in this section of the *Compliance Audit Guide*. The

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 2 of 14
Subject: School District Fall Enrollment and Student Membership Reporting
SOE, Division of Agency Services, School Finance & Statistics Section

contract between the school district and the independent accountant should clearly identify the agreed-upon procedures to be performed, and those procedures should be consistent with the guidance in this section.

1.8. The procedures performed and reports issued by the independent accountants should also meet the standards for attestation engagements established by the Comptroller General of the United States in the June 2003 edition of *Government Auditing Standards* at <http://www.gao.gov/govaud/ybk01.htm>. Section 2.08 should be especially noted: “Attestation engagements are performed under the AICPA’s attestation standards, as well as the related AICPA Statements on Standards for Attestation Engagements (SSAE). GAGAS prescribe general standards and additional field work and reporting standards beyond those provided by the AICPA for attestation engagements.”

2. OBJECTIVES

2.1. To assure users of aggregate membership, fall enrollment, and dropout data reported by districts to the USOE via the Data Clearinghouse that such data are reasonably accurate and supported by adequate local documentation.

2.2. To identify sources of errors in recording and reporting nonfiscal data for the purpose of making continuous improvements to the quality of student accounting systems.

3. STANDARDS FOR RECORDING AND REPORTING STUDENT DATA

3.1. Standards for organizing and maintaining a student accounting system and for reporting pertinent to these agreed upon procedures are found principally in two documents:

3.2. State Board of Education rule R277-419 on “Pupil Accounting” contains the legal standards and is found at <http://www.rules.utah.gov/publicat/code/r277/r277-419.htm>.

3.3. The USOE “Data Clearinghouse Update Transactions” file layout contains the technical standards and is found at <http://www.schools.utah.gov/computerservices/Clearinghouse/Clearinghouse.htm>.

3.4. The following parts of the Data Clearinghouse document are the most relevant to the purposes of these agreed upon procedures:

- S1 Exit Code field — this is the reason why the student left school before the end of the school year
- S1 School Membership field — this is “regular” membership
- S2 SCRAM Membership field — this is special education membership

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 3 of 14
Subject: School District Fall Enrollment and Student Membership Reporting
SOE, Division of Agency Services, School Finance & Statistics Section

- S2 SCRAM Time/Setting field — note the distinction between “self contained” and “resource” types of special education students

3.5. In addition to reading the above mentioned documentation, the independent accountant should also become familiar with the district’s data management policies and practices, especially as these impact the district’s production and submission of the Year End and Fall Clearinghouse files to the USOE.

4. AGGREGATE MEMBERSHIP:

Agreed-upon Procedures to be Performed by the Independent Accountant

4.1. Select schools in the district such that each school is included in the sample at least once every five years; if feasible, a shorter cycle, such as once every three years, would be preferable.

4.2. Visit each school in the sample.

4.3. Select students in the schools such that the total number of students in the sample is equal to or greater than the following size according to the enrollment of the district on the previous October 1:

<u>Enrollment</u>	<u>Sample Size</u>
40,000 or greater	70
20,000 to 39,999	50
10,000 to 19,999	40
1,000 to 9,999	30
Less than 1,000	20

Students sampled should include an appropriate representation from each compliance rule [see 4.4(a) through (g)] with a focus on potential or identified risk of noncompliance, i.e., students who enter or exit during the school year and students with significant absences.

4.4. For each student in the sample, study the student’s records and supporting documentation (particularly for entry and exit dates), identify the student’s aggregate membership as recorded in the records, and determine whether the following rules from R277-419 were properly applied in calculating the student’s aggregate membership:

(a) Ten Day Rule [R277-419-1(O)]

If the student had 10 consecutive school days of unexcused absences, the student’s exit date is not later than the school day after the 10th day of such absences and, consequently, the student did not generate membership from that day on. An “unexcused absence” means an absence charged to a student when the student was not physically present at school at any of the times attendance checks were made during the day in accordance with R277-419-3(B)(4), and the student’s absence could not be accounted for by evidence of a legitimate excuse in accordance with the local board of education policy on truancy as defined in Utah Code 53A-11-101.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 4 of 14
Subject: School District Fall Enrollment and Student Membership Reporting
SOE, Division of Agency Services, School Finance & Statistics Section

(b) Maximum 990 Hours Rule [R277-419-3(A)]

This comprises three related equations: (i) the sum of the student's regular (K-12) membership and special education *self contained* membership does not exceed 180 days; (ii) the sum of the student's special education *self contained* and special education *resource* membership does not exceed 180 days; and (iii) the sum of the student's regular membership and special education *resource* membership does not exceed 360 days.

(c) Individualized Education Plan Rule [R277-419-3(B); R277-750]

If the student was enrolled in a special education program, there is an appropriately completed IEP for the student justifying the service.

(d) Homebound/Hospitalized & Suspension Rule [R277-419-4(C)]

If the student was in membership while homebound, hospitalized or suspended, (i) the student received a minimum of two hours of instructional contact by a licensed educator each week and (ii) the circumstances requiring this instructional arrangement are clearly documented.

(e) Part Time Proration Rule [R277-419-4(E)(1)]

If the student was enrolled for only part of the school day and/or only part of the school year, the student's membership was prorated according to the number of hours or periods the student was actually enrolled in relation to the number of hours or periods the student could have been enrolled. As one example, if the student was in membership 4 periods each day in a 7-period school day for all 180 school days, the student's aggregate membership is 103 days; as another example, if the student was in membership for 7 periods each day in a 7-period day for 103 school days, the student's membership is 103 days.

(f) Released Time Rule [R277-419-4(E)(2)]

If the student was released for religious instruction or individual learning activity, (i) there is a Student Education/Occupation Plan (SEOP) signed by the student, the student's parent or guardian, and a representative of the school indicating the use of released time for this purpose is consistent with the plan and (ii) released time did not exceed the equivalent of one period per school day.

(g) Youth In Custody Rule [R277-419-4(G)]

If the student was enrolled in YIC classes for two to four hours a day (YIC Program Code = ISI-1), regular membership cannot exceed half of total possible regular membership for the student. If the student was enrolled in YIC classes for more than four hours a day (YIC Program Code = ISI-2), regular membership must be zero.

4.5. For any student whose reported aggregate membership is based on a violation of one or more of these rules, recalculate aggregate membership to determine the correct figure.

4.6. Use the appropriate illustrative report at the end of this document as a model for writing a formal summary of your findings and report complete details of your findings for each student in

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the sample in the format specified under the “Aggregate Membership” tab of the APP C-5: Sample Schedules spreadsheet available from Emily Eyre.

4.7. Do not estimate aggregate membership for any school or for the district as a whole. Any adjustments to aggregate membership in light of the compliance findings for the purpose of allocating funds will be made at the discretion of the USOE.

5. FALL ENROLLMENT COUNT:

Agreed-upon Procedures to be Performed by the Independent Accountant

5.1. Select schools in the district such that each secondary school is included in the sample at least once every four years and each elementary school is included in the sample at least once every nine years; if feasible, a shorter cycle, such as once every three years, would be preferable.

5.2. Visit each school in the sample on the first school day of October.

5.3. Select three to five classes in each school such that the total number of selected classes for all sampled schools is equal to or greater than 5% of the total number of classes in the district during the period in which classrooms are visited; however, the sample size should not be fewer than five classes and need not be greater than 30 classes.

For each sampled class on that day:

5.4. Count the students who are *on* the class roll (that is, who should be in the class).

5.5. Count the students who actually are *in* the class. A student should be counted as “in the class” if: (a) the student is on the class roll and (b) is either physically present that day or (c) if absent, appropriately enrolled in the class.

For each sampled school on that day:

5.6. Verify the mathematical accuracy of the school’s enrollment total in its own records.

5.7. As soon as possible after the October 15 deadline for submitting Fall Clearinghouse files, obtain a copy of the district’s final *Fall Clearinghouse Report*, which includes a summary of enrollment on October 1 as reported to the USOE by the district for each school as well as for the district as a whole. (If this report is not available from the district, contact Shaunna Ford at shaunna.ford@schools.utah.gov or 801-538-7672 for a copy.)

5.8. Compare the verified school enrollment total to the reported enrollment total in the *Fall Clearinghouse Report*.

5.9. Use the appropriate illustrative report at the end of this document as a model for writing a formal summary of your findings and report complete details of your findings for each class and school in the sample in the format specified under the “Fall Enrollment” tab of the APP C-5: Sample Schedules spreadsheet available from Emily Eyre.

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5.10. Do not estimate enrollment for any class or school or for the district as a whole. Any adjustments to enrollment in light of the compliance findings for the purpose of allocating funds will be made at the discretion of the USOE.

6. TRANSFER STUDENT DOCUMENTATION:

Agreed-upon Procedures to be Performed by the Independent Accountant

6.1. Select secondary schools in the district such that each school is included in the sample at least once every four years; if feasible, a shorter cycle, such as once every three years, would be preferable. These may be the same secondary schools which were selected for the purpose of applying agreed-upon procedures for Fall Enrollment in 5.1.

6.2. Obtain a copy of the *Transfer Students List* (from the prior Year End upload of the Clearinghouse), which contains students, organized by school, who were:

- (a) enrolled in grades 7 through 12; but
- (b) not enrolled on the last day of the school year; and
- (c) not classified by the district as either high school completers or dropouts.

(If this report is not available from the district, contact Shaunna Ford at shaunna.ford@schools.utah.gov or 801-538-7672 for a copy.)

6.3. Select a sample of students from this list equal to or greater than 5% of the total number students on the list; however, the sample size should not be fewer than 10 and need not exceed 30.

6.4. For each student in the sample, determine whether adequate documentation exists to support the district's claim that the student was not a dropout. The following constitute adequate documentation for the possible types of students on the list:

(a) of “transfer” to another school (TD, TO, TP, TS) — an official request for the student’s records by the receiving school as evidenced in a formal written communication from the school; or an entry in a log systematically maintained for the purpose showing either (i) the name of the student, the name of the person and the name and address of the school making the request, and the date the request was made; or (ii) especially in cases where the parent requests the student’s record at the time of exiting, an effort by the school to confirm the reenrollment of the student in another school.

(b) of “transfer” out of the United States (TC, perhaps some instances of TO) — a statement by a member of the community who has personal knowledge that the student has moved to another country.

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(c) of “transfer” to home schooling (TH) — evidence that the student was issued a certificate exempting them from public school attendance for the purpose of home schooling in accordance with Utah Code 53-11-102.

(d) of “withdrawal” (WD) — evidence based on a source external to the school explaining the student’s situation and justifying withdrawal without continuing provision of educational services in accordance with R277-419-4(C) as a reasonable response.

(e) of “death” (DE) — a copy of the death certificate or an obituary as published in a commercial newspaper.

6.5. Use the appropriate illustrative report at the end of this document as a model for writing a formal summary of your findings and report complete details of your findings for each student in the sample in the format specified under the “Transfer Student” tab of the *APP C-5: Sample Schedules* spreadsheet available from Emily Eyre.

6.6. Do not estimate dropout counts for any school or for the district as a whole. Any adjustments to dropout counts in light of the compliance findings for the purpose of accountability reporting will be made at the discretion of the USOE.

7. REPORTING ADDITIONAL FINDINGS AND DISTRICT’S RESPONSE TO FINDINGS

7.1. The independent accountant is encouraged to include other findings and recommendations related to improving weaknesses in district data management or noncompliance with reporting standards or with the procedures themselves.

7.2. When the independent accountant’s report includes findings or recommendations, the district should provide a response. The response can either be included within the independent accountant’s report or in a corrective action plan issued by the district. The district’s response should include a brief statement of any policy or procedural changes that were or will be made specifically to address the problems identified.

8. INDEPENDENT ACCOUNTANT’S AGREED UPON PROCEDURES REPORT

8.1. A copy of the agreed-upon procedures report, spreadsheet containing findings on each case in the sample, additional written findings, and the district’s response, as applicable, must be received by the USOE by 5:00 p.m. MST on the following dates (if the date falls on a weekend, the deadline shifts to the next workday):

- Aggregate Membership: September 15
- Fall Enrollment Count: November 1
- Transfer Student Documentation: November 1

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8.2. Reports may be submitted via post, fax or email:

POST

Attn: Emily Eyre
Finance and Statistics Section
Data and Business Services Division
Utah State Office of Education
250 East 500 South
P O Box 144200
Salt Lake City, Utah
84114-4200

FAX

To the attention of Emily Eyre at 801-538-7729.

EMAIL

To Emily Eyre at emily.eyre@schools.utah.gov.

8.3. If a report does not conform to the procedures specified in this guide it will be rejected.

8.4. If a report is not received by the specified time, the USOE will immediately begin the process of withholding the district's allotted monthly funds consistent with the authority granted to the State Board of Education under Utah Code 53A-1-403(B).

8.5. If local records are not in a condition to support application of the agreed upon procedures, the independent accountant should, in lieu of the aforementioned report, submit a statement on firm letterhead describing the reason(s) why the procedures could not be performed.

8.6. This report shall become part of the permanent records of both the district and the USOE.

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Illustrative Independent Accountant's Report on Applying Agreed-Upon Procedures Regarding Compliance with Pupil Accounting Rules for Aggregate Student Membership

Board of Education ¹
_____ School District ¹

We have performed the procedures established by the Utah State Office of Education, as documented in the *State of Utah Legal Compliance Audit Guide, Appendix C-5*, and enumerated below, which were agreed to by you, solely to assist the Utah State Office of Education (USOE) and you in evaluating _____ School District's (District) compliance with the USOE's rules for pupil accounting for aggregate membership for the year ended June 30, 200X. Management is responsible for the District's compliance with those requirements. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

1. We familiarized ourselves with the standards established by the State Board of Education and the USOE for recording and reporting student data and the District's data management policies and practices.
2. We selected a sample of _____ students from selected and visited schools. Our sample included an appropriate representation from each compliance rule with a focus on potential or identified risk of noncompliance. Our sample is reported in the attached schedule.
3. For each student sampled, we studied the student's records and supporting documentation, identified the student's aggregate membership as recorded in the records, and determined whether the rules from R277-419 were properly applied in calculating the student's aggregate membership. See attached schedule for any exceptions.²
4. For any student sampled whose reported aggregate membership is based on any violation of R277-419, we recalculated aggregate membership to determine the correct figure. See attached schedule for any exceptions.²

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.28 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.] ³

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In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of compliance requirements, and abuse that are material to the District's aggregate membership data reported to the USOE, and any fraud and illegal acts that are more than inconsequential that come to our attention during the performance of our agreed-upon procedures. We are also required to obtain the views of management on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described [\[as follows: or in the attached Schedule of Findings.\]](#) [\[List the criteria, condition, cause, effect, and views of management for each finding here or in an attached Schedule of Findings.\]](#)⁴

[\[If a management letter has been issued in conjunction with this agreed-upon procedures engagement, the following paragraph should be included.\]](#)⁵

In accordance with *Government Auditing Standards*, we also noted other matters which we have reported to management of the District in a separate letter dated [\[Date of Letter\]](#).

This report is intended solely for the information and use of Board of Education, management of the District, and those specifically required by the filing and distribution requirements of the Utah State Office of Education and is not intended to be and should not be used by anyone other than those specified parties. However, this report is a matter of public record and its distribution is not limited.

[\[Firm's Signature\]](#)

[\[Report Date\]](#)

¹ For a Charter School, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, describe the findings here or refer to where the findings are reported. The District's response can be included here or refer to where the response is reported. See Section 7. for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.28 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting privileged and confidential information; and (e) report issuance and distribution.

⁴ Refer to paragraphs 6.33-.34 of *Government Auditing Standards* regarding the content of the schedule of findings.

⁵ Paragraph 6.35 of *Government Auditing Standards* states, "The auditor should refer to the management letter in the report on the attestation engagement."

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APP C-5: Sample Schedules

AGGREGATE MEMBERSHIP AGREED UPON PROCEDURES SCHEDULE

FISCAL YEAR: Ended June 30, 200X
AGENCY: Enter the name of the local education agency
ENROLLMENT: Enter the agency's enrollment on October 1, 2004
FIRM: Enter the name of the firm which conducted the agreed upon procedures
CPA: Enter the name and phone number of the accountant principally responsible for the engagement
DATE: Enter the date this schedule was completed

Table with 10 main columns: SAMPLE MEMBER, REPORTED AGGR. MEMBERSHIP, ARE ENTRY & EXIT DATES CORRECT?, IS REPORTED AGGREGATE MEMBERSHIP IN COMPLIANCE WITH THESE RULES?, and RECALCULATED AGGR. MEMBERSHIP. Each column contains sub-headers for data entry.

Enter one row for each student in the sample.
Record membership in whole days as found in local records.
For each rule, record one of the following values regarding local data documentation or practice: Y = Yes, in compliance; N = No, not in compliance; X = Not applicable to this student.
Record recalculated membership only if there is an "N" indicating an incorrect entry or exit date or noncompliance with at least one of the rules.

The sample should be risk based and include representations for each compliance rule.

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Independent Accountant's Report on Applying Agreed-Upon Procedures Regarding Compliance with Pupil Accounting Rules for Fall Enrollment Count and Transfer Student Documentation

Board of Education ¹
_____ School District ¹

We have performed the procedures established by the Utah State Office of Education, as documented in the *State of Utah Legal Compliance Audit Guide, Appendix C-5*, and enumerated below, which were agreed to by you, solely to assist you in evaluating _____ School District's (District) compliance with the Utah State Office of Education's rules for pupil accounting for fall enrollment data as of the first school day of October 200X and dropout data for the prior school year. Management is responsible for the District's compliance with those requirements. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

Fall Enrollment Count

1. We visited _____ classes in _____ schools in the District on the first school day of October 200X. Our sample is reported in the attached schedule.
2. We counted the students in each class and compared our counts to the class rolls for that day and verified that students who were not present for the count were appropriately enrolled in the class. See attached schedule for any exceptions.²
3. We also compared individual class rolls in the sample to the school's summary records for the classes that day. See attached schedule for any exceptions.²
4. Finally, we verified the mathematical accuracy of the total enrollment for each school in the sample that day and compared the verified totals to the enrollment total for the same schools in the Fall Clearinghouse Report. See attached schedule for any exceptions.²

Transfers

1. From the Transfer Student List, we selected a sample of _____ students who were enrolled in grades 7 through 12, but not enrolled on the last day of the school year, and not classified by the District as either high school completers or dropouts.
2. For the sample of students, we determined whether adequate documentation exists to support the District's claim that the student was not a dropout. See attached schedule for any exceptions.²

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We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.28 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.] ³

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of compliance requirements, and abuse that are material to the District's fall enrollment and dropout data reported to the USOE, and any fraud and illegal acts that are more than inconsequential that come to our attention during the performance of our agreed-upon procedures. We are also required to obtain the views of management on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described [as follows: *or in the attached Schedule of Findings.*] [List the criteria, condition, cause, effect, and views of management for each finding here or in an attached Schedule of Findings.] ⁴

[If a management letter has been issued in conjunction with this agreed-upon procedures engagement, the following paragraph should be included.] ⁵

In accordance with *Government Auditing Standards*, we also noted other matters which we have reported to management of the District in a separate letter dated [Date of Letter].

This report is intended solely for the information and use of the Board of Education, management of the District, and those specifically required by the filing and distribution requirements of the Utah State Office of Education and is not intended to be and should not be used by anyone other than those specified parties. However, this report is a matter of public record and its distribution is not limited.

[Firm's Signature]

[Report Date]

¹ For a Charter School, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, describe the findings here or refer to where the findings are reported. The District's response can be included here or refer to where the response is reported. See Section 7. for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.28 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting privileged and confidential information; and (e) report issuance and distribution.

⁴ Refer to paragraphs 6.33-.34 of *Government Auditing Standards* regarding the content of the schedule of findings.

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⁵ Paragraph 6.35 of *Government Auditing Standards* states, "The auditor should refer to the management letter in the report on the attestation engagement."

APP C-5: Sample Schedules

FALL ENROLLMENT COUNT AGREED UPON PROCEDURES SCHEDULE

DATE: October X, 200X

AGENCY: Enter the name of the local education agency

POPULATION: Enter the total number of classes in the local education agency during the period in which classes were visited

FIRM: Enter the name of the firm which conducted the agreed upon procedures

CPA: Enter the name and phone number of the accountant principally responsible for the engagement

DATE: Enter the date this report was completed

	INDIVIDUAL CLASS ENROLLMENT	
	5.4 Count of Students on Class Roll (Expected)	5.5 Count of Students in the Class (Actual)
Class Description		

Enter one row for each class

SCHOOL	TOTAL ENROLLMENT	
	5.6 School's Enrollment as Recorded by School in Own Records (Actual)	5.7 School's Enrollment as Reported by District via Clearinghouse (Expected)
School Name		

Enter one row for each school

APP C-5: Sample Schedules

TRANSFER STUDENT DOCUMENTATION AGREED UPON PROCEDURES SCHEDULE

FISCAL YEAR: Ended June 30, 200X

AGENCY: Enter the name of the local education agency

POPULATION: Enter the total number of students on the **Transfer Students List** that was used as the sampling frame

FIRM: Enter the name of the firm which conducted the agreed upon procedures

CPA: Enter the name and phone number of the accountant principally responsible for the engagement

DATE: Enter the date this report was completed

[1]	[2]	[3]	[4]	[5]	[6]
School Name	Statewide Student ID	6.2 Reported Year End Exit Code	6.4 Is documentation adequate to support the reported exit code?	If 6.4 is "no" enter the correct exit code	... and write a brief supporting explanation:

Y = yes, N = no

Enter one row for each student
in the sample.

Enter the exit code from the
Transfer Student List

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Subject: Adult Education Agreed-Upon Procedures Engagement and Adult Education Summary
SOE, Division of Agency Services, School Finance & Statistics Section

Source of Regulations: Utah State Board of Education Rule R277-733, *Adult Basic Education and Adult High School Completion Programs*, and *Policies and Procedures Guide for the Adult Education Program*

Information Contact: Marty Kelly (801-538-7824)
marty.kelly@schools.utah.gov

Effective Date: 1 July 2007

NOTE: In the following text “school district” or “district” also means “charter school” or “community-based organization.”

1. BACKGROUND

1.1. Minimum School Program funds are allocated to school districts by the School Finance and Statistics Section of the Utah State Office of Education (SOE). Compliance requirements related to the Minimum School Program funds allocated to school districts are addressed in section SOE-1 of this *Compliance Audit Guide*. The Minimum School Program allocations are based on formulas provided by the Minimum School Program Finance Act and State Board of Education Rule.

1.2 Adult education funds are distributed to school districts according to the following funding categories:

- Base amount - 7 percent of appropriation or \$13,000, whichever is greater, to be distributed equally to each district with USOE-approved plan.
- Latest official census data, as defined in R277-733-1L, at a decreasing rate per year until reaching zero percent: 15 percent of appropriation for FY 04, 10 percent for FY 05, five percent for FY 06, zero percent for FY 07 and thereafter.
- Measurable outcomes, as defined in R277-733-1M, on an increasing rate per year until reaching 50 percent: 35 percent of appropriation for FY 04, 40 percent for FY 05, 45 percent for FY 06, and 50 percent for FY 07 and thereafter. Funds shall be distributed among measurable outcomes as follows:
 - (a) number of high school diplomas awarded - 30 percent of the total funds available;
 - (b) number of General Education Development (GED) certificates awarded - 25 percent of the total funds available;

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- (c) number of level gains: English for Speakers of Other Languages (ESOL) levels 1-6 and Adult Basic Education (ABE) competency levels 1-4, and Adult High School completion levels 1-2 - 30 percent of the total funds available;
- (d) number of high school credits earned by students - 15 percent of the total funds available.

- Enrollees as defined by federal regulations - 25 percent of appropriation.
- Supplemental support, to be distributed to school districts for special program needs or professional development as determined by written request and USOE evaluation of need and approval - 2 percent or balance of appropriation whichever is smaller.
- Student participation, total number of contact hours - 16 percent.

1.3 To ensure accuracy in the data supplied by the districts, the USOE requires all districts to contract with an independent accountant to perform certain agreed-upon procedures. The procedures to be performed, as determined by the USOE, are described in this section of the *Compliance Audit Guide*. The contract between the district and the independent accountant should clearly identify the agreed-upon procedures to be performed and those procedures should be consistent with the guidance in this section of the *Compliance Audit Guide*.

1.4 The procedures performed and reports issued by the independent accountant should also meet the attestation engagements established by the Comptroller General of the United States in *Government Auditing Standards, as revised*, at <http://www.gao.gov/index.html>. Section 2.08 should be especially noted: “Attestation engagements are performed under the AICPA’s attestation standards, as well as the related AICPA Statements on Standards for Attestation Engagements (SSAE). GAGAS [generally accepted government auditing standards] prescribe general standards and additional field work and reporting standards beyond those provided by the AICPA for attestation engagements.”

2. OBJECTIVES

2.1 To ensure that the information in the *Utah Report of Adult Education Data (URAED)* (due by the district to USOE by July 15) agrees with the information found in the files or student accounting systems of the adult education program.

2.2 To ensure that the district records for Adult Education meet the requirements of Rule R277-733, *Adult Basic Education and Adult High School Completion Programs*, and the *Policies and Procedures Guide for the Adult Education Program*.

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3. AGREED-UPON PROCEDURES TO BE PERFORMED BY THE INDEPENDENT ACCOUNTANT

3.1 Agreed-upon procedures should be performed after the close of the school year. The independent accountant's agreed-upon procedures report and the related Adult Education Summary are due to the USOE no later than September 15, 20X1 for the school year ended June 30, 20X1. These reports will be used in the determination of funding for the second following fiscal year. (For example, the audit of FY 06-07 data will determine FY 08-09 funding.)

3.2 Select students (enrollees and participants) from each funding category (student information, contact hours, diplomas, GEDs, level gains, and credits earned) of the funding formula. (Definitions can be found at the end of this Appendix, Rule R277-733, and the guide.) The samples selected should be representative of the population of students enrolled and participating in the district's Adult Education program during the year. The sample for level gains only applies to enrollees.

3.3 Each sample should be at least 5% (but need not exceed 20 students) of a funding category. One sample may be used for multiple categories if they are included in the same population. For example, the same sample selected for student information might be used in performing procedures related to contact hours or credits earned.

3.4 The Adult Education Summary (sample attached) submitted with the agreed-upon procedures report should agree to the totals on the URAED submitted by the district to the USOE.

(a) Student information:

For each student selected, verify the district's program accounting system clearly states the following:

Student's name, student's gender, student's ethnicity, name of school, name of class, category of class (ABE, AHSC, or ESOL), name of instructor, entry and exit dates, contact hours for each class, units of credit awarded, student's level code and student's demographic code, as applicable.

Match the student information to the student's enrollment intake application to ensure that information between both sources is consistent.

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(b) Contact hours:

For each student selected, obtain the student's attendance record, recalculate the number of contact hours for the student, and verify that the contact hours agree with the hours reported on the program accounting system.

Match the total contact hours on the program accounting system to the total contact hours on the URAED for 1) participants and 2) for enrollees.

(c) Diplomas:

For each student selected, verify that the diploma awarded is properly reported on the student's transcript.

Match the number of diplomas on the program accounting system to the URAED.

(d) General education development (GED) certificates:

For each student selected, verify that the GED was cited on the student's transcript.

Match the number of GEDs on the program accounting system to the URAED.

(e) Level gains:

For each enrollee selected, (1) verify the entering educational functioning level (based on a pre-test), and (2) verify that the enrollee has a post-test (must have a post-test to have achieved a level gain), as noted on the program accounting system.

For the Adult Education program, match the total reported level gains on the program accounting system to the URAED.

(f) Credits earned:

For each student selected, verify that total number of credits earned (credits earned are those achieved by direct participation in adult education classes) in the Adult Education program was properly awarded and reported on the student's transcript.

Match the number of earned credit hours on the program accounting system to the URAED.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-6
Page: Page 5 of 13
Subject: Adult Education Agreed-Upon Procedures Engagement and Adult Education Summary
SOE, Division of Agency Services, School Finance & Statistics Section

4. REPORTING EXCEPTIONS, ERRORS, OR DISCREPANCIES

4.1 The independent accountant should work with the Adult Education program director to ensure that errors noted during the procedures are corrected in the final reports submitted to the USOE. All errors or differences should be addressed in the written findings.

4.2 The findings should be reported in the body of the agreed-upon procedures engagement report and on the Adult Education Summary as well as include other findings and recommendations related to improving weaknesses in a district's reporting and accounting of Adult Education information as may be noted while performing the agreed-upon procedures.

5. INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES ENGAGEMENT REPORT AND ADULT EDUCATION SUMMARY

5.1 A copy of the agreed-upon procedures report and the written findings describing exceptions, errors, or discrepancies, if any, and the Adult Education Summary shall be filed with the district and the USOE no later than *September 15* of each year. These reports shall become part of the permanent records of the district and the USOE. A sample agreed-upon procedures report and Adult Education Summary has been included with this Appendix.

**Independent Accountant's Report on
Applying Agreed-upon Procedures for the
Utah Report of Adult Education Data**

Board of Education
Sample School District (District)

We have performed the procedures established by the Utah State Office of Education, as documented in the State of Utah Legal Compliance Audit Guide, Appendix C-6, and enumerated below, which were agreed to by you, solely to assist you in evaluating Sample School District's (District) compliance with the Utah State Board of Education's Rule R277-733, *Adult Basic Education and Adult High School Completion Programs* and the *Policies and Procedures Guide for the Adult Education Program* for the school year ended June 30, 20XX. Management is responsible for compliance with those requirements and the information reported in the attached Adult Education Summary. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

1. Student information:

Sample size: _____

For each student (participant or enrollee) selected, we verified the program accounting system clearly states the following:

student's name, student's gender, student's ethnicity, name of school, name of class, category of class (ABE, AHSC, or ESOL), name of instructor, entry and exit dates, attendance record, contact hours for each class, units of credit awarded, student's level code, and student's demographic code, as applicable.

For each student (participant or enrollee) selected, we matched the student's information in the program accounting system to the student's enrollment application to ensure that information between the two sources is consistent.

No exceptions were found as a result of applying these procedures.²

2. Contact hours:

Sample size: _____

For each student (participant or enrollee) selected, we obtained the student's attendance record, recalculated the number of contact hours for the student, and verified that the contact hours agree with the hours reported on the program accounting system.

We matched the total contact hours on the program accounting system to the total contact hours on the Utah Report of Adult Education Data (URAED) for 1) participants and 2) for enrollees.

No exceptions were found as a result of applying these procedures.²

3. Diplomas:

Sample size: _____

For each student (participant or enrollee) selected, we verified that the diploma was properly reported on the student's transcript.

We matched the total number of diplomas on the program accounting system to the URAED.

No exceptions were found as a result of applying these procedures. ²

4. General education development (GED) certificates:

Sample size: _____

For each student (participant or enrollee) selected, we verified that the GED was properly cited on the student's transcript.

We matched the total number of GEDs on the program accounting system to the URAED.

No exceptions were found as a result of applying these procedures. ²

5. Level gains:

Sample size: _____

For each enrollee selected, we (a) verified the entering educational functioning level, and (b) verified that the enrollee has a pre- and post-test, as noted on the program accounting system.

We matched the total number of level gains on the program accounting system to the URAED.

No exceptions were found as a result of applying these procedures. ²

6. Credits earned:

Sample size: _____

For each student (participant or enrollee) selected, we verified that the total number of credits earned in the Adult Education program was properly awarded and reported on the student's transcript.

We matched the number of credits earned hours on the program accounting system to the URAED.

No exceptions were found as a result of applying these procedures. ²

We were not engaged to, and did not, conduct an examination, the objective of which would be the expression of an opinion on compliance and on the Utah Report of Adult Education Data of Sample School District for the year ended June 30, 20XX. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.28 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.] ³

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of compliance requirements, and abuse that are material to the District's adult education data reported to the USOE, and any fraud and illegal acts that are more than inconsequential that come to our attention during the performance of our agreed-upon procedures. We are also required to obtain the views of management on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described [as follows: *or* in the attached Schedule of Findings.] [List the

criteria, condition, cause, effect, and views of management for each finding here or in an attached Schedule of Findings.] ⁴

[If a management letter has been issued in conjunction with this agreed-upon procedures engagement, the following paragraph should be included.] ⁵

In accordance with *Government Auditing Standards*, we also noted other matters which we have reported to management of the District in a separate letter dated [Date of Letter].

This report is intended solely for the information and use of the Board of Education, management of the District, and those specifically required by the filing and distribution requirements of the Utah State Office of Education and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

[Firm's Signature]

[Report Date]

¹ For a Charter School or Community-Based Organization, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, replace this sentence and describe the findings here or refer to where the findings are reported. The District's response can be included here or refer to where the response is reported. See Section 4 of this Appendix for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.28 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting privileged and confidential information; and (e) report issuance and distribution.

⁴ Refer to paragraphs 6.33-.34 of *Government Auditing Standards* regarding the content of the schedule of findings.

⁵ Paragraph 6.35 of *Government Auditing Standards* states, "The auditor should refer to the management letter in the report on the attestation engagement."

Sample School District
Adult Education Summary
Year Ended June 30, 20XX

	<u>Enrollees</u>	<u>Participants</u>
1. Total Number of	_____	_____
2. Contact Hours	_____	_____
3. Total Number of Diplomas	_____	_____
4. Total Number of GEDs	_____	_____
5. Total Number of Level Gains	_____	XXXXXXXX
6. Total Credits Earned	_____	_____

DEFINITIONS FOR ADULT EDUCATION PROGRAM

Enrollee: an adult education student who completes twelve or more contact hours during a fiscal year.

Adult Basic Education (ABE): instruction designed specifically for an native English speaking adult who 1) has minimal competence and basic skills in reading, writing, speaking, problem solving, or computation 2) is not sufficiently competent to meet the educational requirements of adult life in the United States; or 3) is not sufficiently competent to speak, read or write the English language to allow employment commensurate with the adult's real ability. Includes grade levels 0 – 8.9.

ABE includes the following:

ABE 1 (Beginning ABE Literacy): Grade level 0-1.9. Student has no or minimal reading and writing skills, may have little or no comprehension or how print corresponds to spoken language and may have difficulty using a writing instrument, may have little or no recognition of numbers or simple counting skills, may have little or no ability to read basic signs or maps and can provide limited personal information on simple forms, can write a limited number of basic sight words and familiar words and phrases. Student can handle simple routine entry level jobs that require little or no basic written communication or computational skills. No knowledge of computers or technology.

ABE 2 (Beginning Basic Education): Grade level 2.0-3.9. Student can read simple material on familiar subjects; can write simple notes and messages on familiar situations. Student can count, add and subtract three digit numbers, can perform multiplication through 12, can identify simple fractions, and perform other simple mathematical operations; is able to read simple directions, signs and maps, fill out simple forms requiring basic personal information, write phone messages and make simple changes. The student can handle basic entry level jobs that require minimal literacy skills, can read want ads and complete simple job applications.

ABE 3 (Low Intermediate Basic Education): Grade level 4.0-5.9. Student can read text on familiar subjects that have a simple and clear underlying structure, can use context to determine meaning; can write simple paragraphs with a main idea and supporting details on familiar topics. Student can perform with high accuracy all four basic math operations using whole numbers up to three digits and can identify and use all basic mathematical symbols. Student is able to handle basic reading, writing and computational tasks related to life roles such as completing medical forms, order forms, employment applications. Student can qualify for entry level jobs that require following basic written instructions and diagrams with assistance. Can use simple computer programs and perform a sequence of routine tasks given directions in using technology.

ABE 4 (High Intermediate Basic Education): Grade level 6.0-8.9. Student is able to read simple descriptions and narratives on familiar subjects or from which new vocabulary can be determined by context and can make minimal inferences. The student is able to write simple narrative descriptions and short essays on familiar topics and can use punctuation consistently. The student can perform all four basic math operations with whole numbers and fractions; can determine correct math operations for solving story problems. Student is able to handle basic life skills tasks such as graphs and charts. The

student can read materials on familiar topics such as simple employee handbooks and payroll stubs, can complete simple forms and reconcile a bank statement. Can learn and work with most basic computer software such as using a word processor and can follow simple instructions for using technology.

Adult Secondary Education (ASE or AHSC or HSC): instruction designed for the adult who 1) has basic skills and competence levels in reading, writing, speaking, problem solving and computation; 2) may or may not have a certificate of graduation (or its equivalent) from a school providing secondary education. Includes grades 9.0 through 12.9.

High School completion includes the following:

AHSC 1 (Low Adult Secondary Education): Grade level 9.0-10.9. This student can be considered as a “high school diploma seeking student”. The student can comprehend expository writing and identify spelling, punctuation and grammatical errors. Writing is organized and cohesive, can write and reflect thoughts. The student can perform all four basic math functions with whole numbers, decimals and fractions; can interpret and solve simple algebraic equations, tables, graphs; can use math in business transactions. The student is able or can learn to follow simple multi-step directions and read common legal forms and manuals. Student is proficient in using computers and can use most common computer applications.

AHSC 2 (High Adult Secondary Education): Grade level 11.0-12.0. Student can comprehend, explain and analyze information from a variety of literacy works, can use higher order processes to interpret meaning of written material. Writing is cohesive and clearly expressed. Student can make mathematical estimates of time and space and can apply principles of geometry to measure angles, lines and surfaces. Student is able to read technical information and complex manuals, can comprehend some college level books and apprenticeship manuals; can function in most job situations involving higher order thinking. Student can work productively in groups. Can use and adapt common software and select appropriate technology to new situations.

English for Speakers of Other Languages (ESOL): non-English speakers who lack competence and language acquisition in any or one of the following: reading, writing, speaking, problem solving or listening.

ESOL includes the following:

ESOL 1 (Beginning ESOL Literacy): student who cannot speak or understand English, has no or minimal reading or writing skills in any language. Student functions minimally or not at all in English and communicate only through gestures or a few isolated words. Student may have no knowledge or use of computers.

ESOL 2 (Low Beginning ESOL): student can understand basic greetings, simple phrases and commands. Student can understand simple questions related to personal information, read numbers, letters and some common sight words, can read and write some familiar words and phrases, can write basic personal information. Student can function with difficulty in social situations and situation related to immediate needs. Student may have limited knowledge and experience with computers.

ESOL 3 (High Beginning ESOL): student can understand common words, simple phrases and sentences containing familiar vocabulary, can read most sight words and many other common words, can read familiar phrases and simple sentences. Student can function in some situations related to immediate needs and in familiar social situations. Student may have limited knowledge and experience with computers.

ESOL 4 (Low Intermediate ESOL): student expresses basic survival needs and with some difficulty participates in some routine social conversations, reads simple material on familiar subjects, can write simple notes and messages on familiar situations, can interpret simple directions, schedules, signs, maps etc, and can complete simple forms. Student may be able to use computer programs and can perform a sequence of routine tasks given directions.

ESOL 5 (High Intermediate ESOL): student can participate in conversation in familiar social situations but may need some assistance in clarifying, can read text on familiar subjects that have a simple and clear underlying structure, can write simple paragraphs, can meet basic survival and social demands and can follow simple oral and written instructions, has some ability to communicate on the telephone on familiar subjects. Student can work with or learn basic computer software.

ESOL 6 (Advanced ESOL): student can understand and communicate in a variety of contexts related to daily life and work, can understand and participate in conversations on a variety of everyday subjects including some unfamiliar vocabulary, can read moderately complex text related to life roles and descriptions and narratives from authentic materials on familiar subjects, can function independently to meet most survival needs and to use English in routine social and work situations. Student can use common software, learn new basic applications and select correct basic technology in familiar situations.

Exiting the Program/ Exit Date. Date when the student last attends a program through ‘drop out’ or completion of goal(s) and has not received instruction for 90 days.

Contact Hour. Hours of instruction, counseling or SEOP hours, assessment time, tutoring under the supervision of a school district employee or community-based organization employee designed to promote student learning in the program curriculum. Contact hours are reported in the learners entering functioning level regardless of area of instruction.

Hours that CAN be counted:

- * Instructional hours in all ABE.
- * AHSC and ESOL classes designed to advance a student’s functioning level.
- * Program-sponsored tutoring or participation in a learning lab.

Hours that CANNOT be counted:

- * Homework completed outside of class.
- * Community education classes such as parenting and computer literacy.
- * Time spent in GED examinations.
- * Distance learning including : electronic high school courses or other courses not taken under the direct supervision of an adult education instructor.

Completing a Level. Progressing from one educational functioning level to the next higher educational functioning level. Evidence of completing a level is determined as student’s post-test score exceeds their Entering Functioning Level (EFL). The National Reporting System

(NRS) Functioning Level descriptors are used to determine a student's Functioning Level. If a student's post-test score exceeds the NRS descriptors range of scores for his/her EFL the student may have met their goal. The student may exit the program or they may remain enrolled and move towards advancing additional levels as their future assessments indicate. Advancement or completing a level can only be determined by the student's post-test scores.

Completing a Level and Advancing One or More Levels. Includes completing a level (see Entering Functioning Level for the baseline to gauge advancement). After a level is completed, a continuing student may advance multiple levels. It is necessary to remember that Completing a Level is based on the student's lowest level for reporting purposes. If a student's post-test score (using a different form of the same standardized test used for the pre-test to establish the EFL *and* after an additional 60 - 100 hours of instruction) exceed the NRS descriptors range of scores the student has then completed another level.

Entering Functioning Levels (or Functioning Level) – per NRS guidelines (EFL). Student is assigned an EFL for reporting purposes during a fiscal year. An EFL is determined by scale scores obtained from a standardized pre-test. A student's scale score in their lowest area of instruction i.e. math, writing, reading determines a student's EFL for Utah reporting purposes and is the baseline upon which advancement to higher NRS levels is used. (See NRS functioning levels for ESOL, ABE, and AHSC).

Level Gain. When a student enters the program for the first time in a fiscal year he is assessed and receives a pre-test score. The student's lowest "academic" level is his entering functioning level for the fiscal year. The student must be post-tested to determine a level gain. The student's testing must show progression from one bench mark to another in the lowest academic area of assessment. For example: if an ESOL student has an entering pre-test BEST Plus score between 401-415 he is placed in ESOL 2 as an entering functioning level. When he is post-tested and his BEST Plus score is between 439-517 he demonstrates a placement level of ESOL 4. This would be two level gains. Another example: An ABE student tests 380 on the TABE reading (ABE 2) and 450 on the TABE in math (ABE 3); Level gains are always measured from the lowest functioning level, which in this case is reading (ABE 2). If the student shows a level gain in math on the post-test and no gain in reading there is NO level gain.

Participant: A student who completes less than twelve contact hours in a fiscal year.